

AMP 2021: Community Asset Transfer Guidance document

Community demand, need and lead



Supporting BCBC aims and priorities



Positive community asset transfer



Transparency



Sustainability

Cyngor Bwrdeistref Sirol



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Document Consultation

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1. Purpose of this document

The purpose of this document is to support the BCBC AMP 2021 Disposal strategy and to set transparent and positive guidance to enable where appropriate asset transfer from Bridgend County Borough Council to the third sector to happen. The objective is:

To positively enable, where appropriate asset transfer from BCBC to the third sector.

An appropriate transfer is one which:

- ▶ **is community led to meet community demand and need**
- ▶ **supports our aims and priorities**
- ▶ has a **transparent business case** including financial implications to the authority,
- ▶ **is sustainable in the long term.**

2. Background

Use and occupation of Bridgend County Borough Council owned premises by the Voluntary sector is not new. Various properties are already used /occupied by a variety of organisations ranging from voluntary support groups to sporting and youth organisations. The Asset Management Plan (AMP) 2021 identified the need for guidance to build upon current experience and best practice to provide a clear framework for responding to any requests for asset transfer.

Historically, a number of community asset transfers have occurred almost through default as a result of grant applications being put in place by groups with out the knowledge of property or other BCBC services. This guidance aims to overcome these situations arising, enabling proper, transparent consideration for all Community Asset Transfer Proposals.

Due to the diverse nature of our property holdings which includes land, buildings, structures, and monuments it is clear that “one size will not fit all” therefore the frame work is fluid built around 4 key principles:

- ▶ **Community led to meet community demand and need**
- ▶ Any proposed asset transfer **must support our aims and priorities**
- ▶ **Transparency** including financial implications to the authority,
- ▶ Project **sustainability**

3. Legislative/WAG policy context

The Council does have the opportunity under the General Disposals Consent 2003 to sell or lease general fund assets at less than best consideration subject to a value limit of £2m in cases where it can demonstrate and attribute value to wellbeing benefits that would arise. Any disposal for less than best consideration would need to be transparent justifiable and have the appropriate Cabinet approval.

4. Local policy context & links to other strategies

The AMP 2021 identifies that our property strategy is to rationalise our portfolio and always to obtain the best outcome to help deliver Council objectives. This will require balancing the best price reasonably obtainable to support the Capital Programme and reducing our revenue liabilities against the benefits being offered through alternative use including asset transfer. This is supported by our disposals strategy that works to always achieve the best disposal out come for BCBC.

The operation of Community Asset Transfer will need to support our priorities and have regard to the desired outcomes in other Council strategies including:

- ▶ Schools Modernisation
- ▶ Active & Healthy Living
- ▶ Efficiencies
- ▶ Sustainable communities
- ▶ Adult Social Care Remodelling

5. Aims of the Community Asset Transfer

The aims of Community Asset Transfer are well rehearsed through a plethora of government documents from the Quirk review (Department of communities and Local government 200) to WAG Making the Connections (Welsh Assembly Government 2004-2009). They identify benefits including:

- ▶ Community empowerment
- ▶ Area wide benefits for the local citizens
- ▶ A sustainable third sector
- ▶ Economic development and social enterprise
- ▶ Improvements to local services
- ▶ Value for money
- ▶ Delivery of Corporate Objectives

A critical aspect of community Asset Transfer is the transparency and need to identify the sustainability and the capacity of the organisation in managing any asset transfer and the out comes, the community impact and benefits of asset transfer in terms of economic, social, or environmental well being of the community.

6. The 4 Principles of BCBC Asset Transfer

Our guidance on community asset transfer is underpinned by the following 4 principles:

1. Community led to meet community need and demand

- ▶ Community led, i.e. there must be strong links with the local community and members of the community are able to influence proposed operation and decision-making processes.
- ▶ There must be both a need and demand for the activities being proposed and consideration given as to whether or not this is being satisfactorily addressed by another organisation.

2. Support our Aims and Objectives:

- ▶ The proposed transfer must demonstrably help in the delivery of the Council's community strategy, corporate needs and facilities for the use by the people of Bridgend.
- ▶ The proposed use must ensure extensive and inclusive reach into the community and will be open to all.

3. Transparency:

The asset transfer decision must be transparent and include an assessment of a number of criteria as detailed in appendix b including:

1. BCBC asset requirements, eg is the asset required for future direct service delivery requirements
2. Benefits to respective parties e.g. Council, Community, Third Sector generated by the transfer of the asset to the community
3. Potential loss of capital receipt and impact for future investment in direct service provision.
4. Loss of any existing income
5. Potential loss of opportunity costs arising from transfer

4. Sustainability

Fundamental to the success of any transfer is the applicant (s) demonstrating to the Council that they have a clear rationale backed by a robust business-case of their ability to manage the asset effectively. This needs to include an assessment of the financial and organisational capacity of the organisation and includes:

- ▶ Income generation proposals to ensure sustainability, for example, through social enterprise and the hiring of space and facilities.
- ▶ The need and demand for the activities being proposed and consideration of whether or not this is being satisfactorily addressed by another organisation.
- ▶ The space required to deliver the proposals, and how good use will be made of the facilities.
- ▶ Clear management structure demonstrating how premises will be managed on a day to day basis, and legislation affecting occupation of premises.

Communities First Partnerships (where appropriate to the given area) can play an important role in helping community groups to bring this forward. There could also be support from BCBC regeneration and/ or Economic Development, BAVO and the Development Trusts Association Wales

7. Framework for considering requests for community Asset Transfer

The Community Asset Transfer diagram contained in **appendix A** illustrates the process and frame work for considering CAT applications

Requests for the transfer of Council owned assets will be considered where all of the criteria contained in **appendix B** are met.

In the case of new groups consideration may be given to “temporary asset transfers” by way of granting short licences to enable the groups to test out options and see if they can secure funding before proceeding with a longer term asset transfer.

8. Disposal and legal considerations

Disposal will be in line with the BCBC disposals strategy that is to deliver the best disposal option. The general policy for community asset transfer is that asset transfers will be by means of leases or licenses.

Freehold transfer will only be considered in exceptional circumstances, and must be the subject of a specific report to Council to gain approval. Nature of Tenure offered will be determined on case by case basis having regard to the particular circumstances of the project, strength of the applicant and sustainability of the business case etc.

In cases where there are 2 or more groups interested in a property a selection procedure will need to be adopted considering factors such as community

need and demand, support of BCBC priorities, aims and objectives, sustainability and transparency.

The initial consideration of the case would be by the Corporate Property Group. The final decision will be taken by Cabinet.

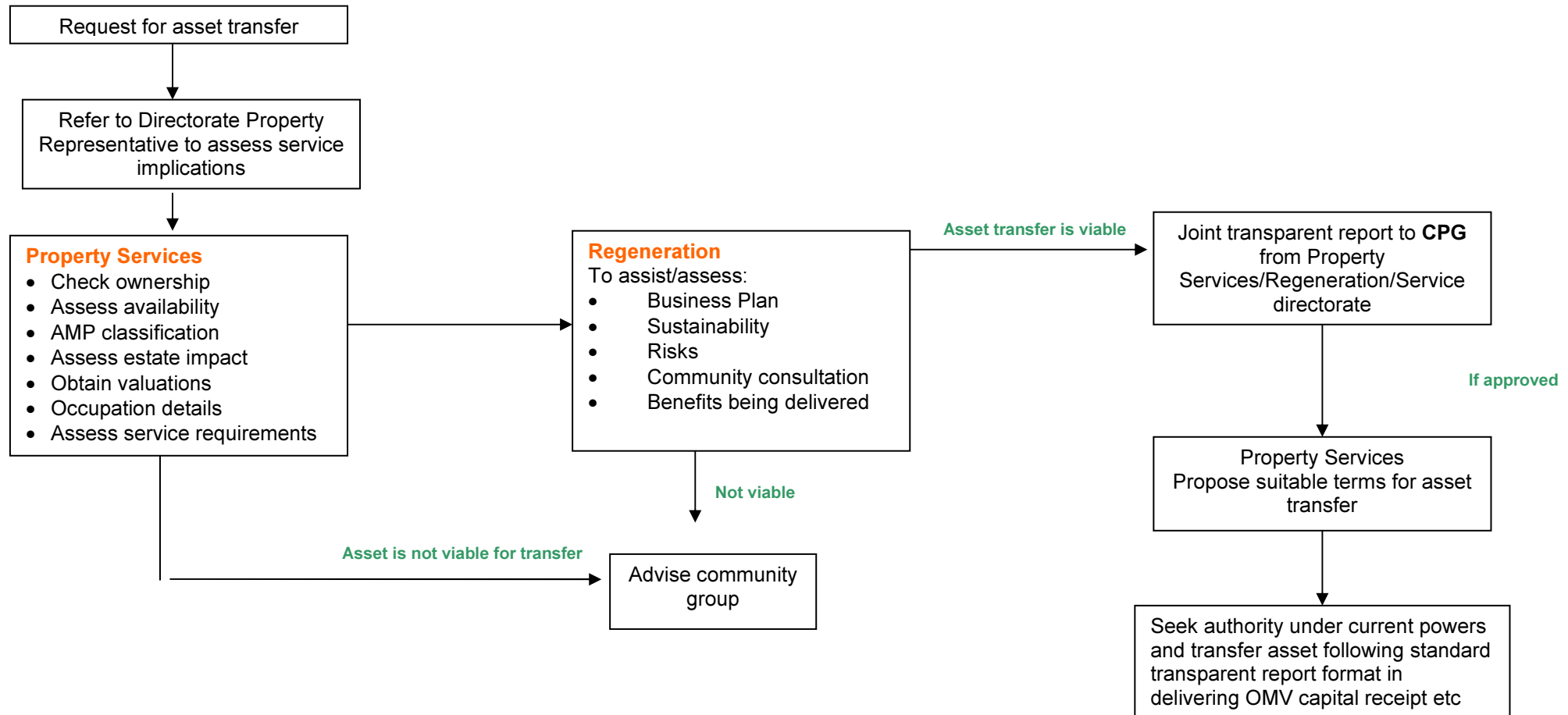
The decision whether to charge an open market consideration for the benefit of an interest in an asset will be determined on a case by case basis and considered inline with our disposals strategy. Factors influencing such a decision will include proposed uses, extent of revenue producing opportunities, benefits to the community.

In all cases involving transfer of ownership /occupation appropriate legal mechanisms will be put in place to protect the Councils financial position. Any proposed asset transfer at less than best consideration will be subject to formal valuation in accordance with the Royal Institution of Chartered Surveyors Valuation Standards.

Legal Issues may arise with regard to; domestic law applicable to disposals at an undervalue, law relating to judicial review and law applicable to employment contracts; EC law applicable to procurement issues, treaty obligations and state aid.

All the above will need to be considered on a case by case basis and guidance.

Appendix A
The Community Asset Transfer Diagram



Appendix B Assessment Criteria

a) The Applicant must be:

Community-led, i.e. its governance arrangements must ensure that it has strong links with the local community and that members of the community are able to influence its operation and decision-making processes;

A Voluntary and Community Sector organisation - i.e. it must be a legal entity which is:

- ▶ Non-governmental - not part of the statutory sector
- ▶ It must exist for community / social / environmental benefit
- ▶ Non-profit distributing - it must reinvest any surpluses to further its social aims / community benefits
- ▶ Appropriately constituted, for example, a registered charity, a community interest company or a charitable incorporated organisation, a not for profit company; a co-operative. Such constitution allows the management /ownership of buildings and or provision of services
- ▶ Demonstrate good governance by operating through open and accountable co-operative processes, with adequate monitoring, evaluation and financial management systems; Can demonstrate it has the skills and capacity within or available to its managing body to effectively deliver services and manage the asset
- ▶ Embrace diversity and work to improve community cohesion and reduce inequalities Abide by the principles and undertakings in the Third Sector Compact
- ▶ Engaged in economic, environmental or social regeneration in Bridgend or is providing a service of community benefit in line with the Council's core priorities
- ▶ Management proposal includes a specific plan on health and safety issues and compliance with legislation and any statutory requirements arising from ownership or management of the building and or running a service.
- ▶ Provide copies of the accounts of the organisation if available.
- ▶ The organisation has a clear purpose and understanding of the activities it wishes to deliver.

- ▶ Fit with regeneration strategy where appropriate, such as Western Valleys SRA, town centre regeneration policies/ fit with Communities First Action Plans.

b) The Asset

- ▶ A legal interest owned by the Council from which the transferee can demonstrate community benefit.
- ▶ The asset is in the freehold/leasehold ownership of the Council.
- ▶ An options appraisal has been carried out and approved by Corporate Property Group to identify that the asset is suitable for community transfer as the sole or one of the viable options. This process will be adopted in response to requests or properties identified through internal reviews.
- ▶ The asset is not currently needed or identified for future investment value or use for direct service delivery, which could best be provided directly by the authority rather than through the community.
- ▶ The transfer will deliver the strategic priorities of the Council.
- ▶ Where possible extended use and collocation will be given primary consideration, single use site will only be considered where there is a significant business case to do so.

c) Proposed use

- ▶ The proposed use will demonstrably help in the delivery of the Council's community strategy, corporate needs and facilities for the use by the people of Bridgend.
- ▶ The proposed use will deliver extensive and inclusive reach into the community and will be open to all.
- ▶ The proposed use will maximise opportunities for income generation to ensure sustainability, for example, through social enterprise and the hiring of space and facilities.
- ▶ There is both a need and demand for the activities being proposed and consideration is given as to whether or not this is being satisfactorily addressed by another organisation.
- ▶ The applicant has established how much space it requires to deliver its proposals, and how they will make good use of such facilities.

d) Business Plan & Finance

Fundamental to the success of any transfer is the applicant (s) demonstrating to the Council that they have a clear rationale backed by a robust business-case of their ability to manage the asset effectively. This needs to include an assessment of the financial and organisational capacity of the organisation. This will include:

- ▶ How the need for proposed transfer and use of asset has been identified – what needs will the transfer meet?
- ▶ Assessing the Benefits case as a result of transfer– what will be different and how it will be measured
- ▶ Capacity of the Third Sector Organisation to acquire and manage the asset – reference to any accreditations achieved e.g. Community Matters 'visible' standards or Development Trust Association 'health check'
- ▶ Business case for future uses for the asset e.g. cash flow forecasts
- ▶ Type of transfer sought and why

In terms of proposing a business case for consideration by the Council any applicant will need to clearly identify

- ▶ Revenue or capital funding plans and projections of managing and operating the asset.
- ▶ How it will invest in and maintain the asset including a specific plan as to how all health and safety responsibilities will be met.
- ▶ The planned outcomes and benefits to result from the asset transfer.
- ▶ Demonstrated a community governance structure with capability to sustain asset transfer and has identified necessary capacity building requirements within their organisation.
- ▶ Whether they would wish to start on the phased transfer of the asset and agreed milestones to justify progression to the next phase.
- ▶ Where transfer is requested at less than market value either freehold or leasehold the applicant has justified and quantified the benefits to the community and Council to justify the subsidy. The Council will separately need to satisfy that any transfer is within its legal and financial powers
- ▶ Any sources of finance asset transfer will release or attract
- ▶ Track record of delivering services and or managing property

- ▶ Financial sustainability and forward planning.
- ▶ Have established how much space is required and its potential usage