
Decision maker:	Cabinet member contracts and assets
Decision date:	30 November 2016
Title of report:	Community asset transfer – former Castle Green training centre and canoe centre, Hereford
Report by:	Head of corporate asset management

Classification

Open – report

Exempt – background paper

Key decision

This is not a key decision.

Wards affected

Central

Purpose

To approve a 25 year leasehold asset transfer of the former training centre and canoe centre at Castle Green, Hereford to The Friends of the Castle Green (FoCG) for an annual consideration of £1.

Recommendation

THAT:

- (a) a 25 year leasehold transfer of the former training centre and canoe centre at Castle Green, Hereford to the Friends of the Castle Green (FoCG) be approved at an annual consideration of £1.

Alternative options

- 1 Do nothing and continue with the annual licence arrangements as set out in the key considerations below with Herefordshire Council continuing to own and maintain the assets. This is not recommended as the council retains a growing backlog maintenance liability for a listed building.
- 2 Market the entire demise for disposal. This is not recommended. Although an independent valuation has suggested that a capital receipt of £230k may be achieved under certain circumstances such as change of use to residential, the considerable social value of the services provided by the current tenant is likely to significantly outweigh the financial benefit that may accrue from such a market disposal.
- 3 To transfer the freehold to tenant. This is not recommended as the tenant is not interested in the acquisition of the freehold.
- 4 Offer the lease at full market rent. This is not recommended as it would undermine the ability of the tenant to attract external funding for a community asset. The present occupant would not accept such terms unless the rental was rebated for a substantially long-term to off-set the capital investment required to bring the building up to an acceptable standard (the building is classified as a community asset and is not deemed as an investment property).

Reasons for recommendations

- 5 The building is surplus to operational need. It is a high cost building to service for public access and in its present form not suitable for any identified use. It would be high cost to retrofit to achieve full disabled access and it has no vehicular access or car parking rights.
- 6 The current licence makes good social/community use of the facility and is well placed to secure the necessary funding to refurbish it in the medium to long term. The community benefits accruing from its use support the council in delivering its social objectives.

Key considerations

- 7 The building is surplus to the council's operation need. It has been occupied by the FoCG on an annually renewable licence of £1 since September 2012 when it was vacated by the council as a training centre and outdoor education base. Due to its poor access and mounting backlog maintenance liability, it is unviable for the council to envisage any practical use of the facility in the future for its own needs.
- 8 The FoCG have made a submission in accordance with the policy and procedures set out in the council's Corporate Property Strategy: Community Asset Transfer policy of February 2016. Support has been provided by the council's community development service to ensure that all of the requirements have been met. The submitted five year business plan has been reviewed and recommended for approval by the regeneration programmes team who manage the CAT development service.
- 9 The transfer is currently restricted to the former training centre and canoe centre building, although should this project prove successful, there are aspirations within the business plan for the FoCG to take responsibility for the public toilet block and the bowls pavilion/bowling green. Any such disposals will be subject to a further

decision.

- 10 The transfer will be subject to a 25 year lease at nominal consideration to take account for the amount of unavoidable backlog maintenance liability inherent in the building. There will be a restriction on use to its current community status and sub-letting will be prohibited without formal landlord consent.
- 11 Given the historic significance of the site, the listing of the property and its current use and range of beneficiaries, the FoCG are well placed to attract external funding to improve its offer if given security to tenure for a long period. Such funding would not be available to the council.
- 12 The FoCG has existed as an active community body from the early 2000's converting to a community interest company in 2012. It has a clear vision, a competent board and a strong track record of fundraising for large scale community events and programmes. It currently acts as a base for over 30 voluntary organisations and supports many activities for lower income groups. They have also resurrected the former canoe club and provide projects for disadvantaged young people (Livewire) and clients of both the council's children's wellbeing and adults and wellbeing services.

Community impact

- 13 The recommendations specifically support those elements of the council's corporate plan that involve:

'Working in partnership to take better use of resources, including sharing premises costs through co-location of services and local solutions for community used facilities'.
- 14 The proposal is in line with the community asset transfer policy as set out in the council's corporate property strategy approved in February 2016.

Equality duty

- 15 The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying "due regard" in our decision making in the design of policies and in the delivery of services. The proposal is in pursuance of this duty.

Financial implications

- 16 The CAT / long term lease of the facility will mean that the council is foregoing a potential capital receipt, which has been independently estimated at a caveated gross figure of £230k. The estimated capital receipt could otherwise be used to support the council's capital programme or reduce historic debt, potentially generating a revenue saving of circa £7k per annum. However, as with any receipt estimate, there may be challenges in achieving the capital receipt in full.
- 17 The proposed lease terms would relieve the council of any future repair or maintenance obligations. The maintenance costs in 2015/16 were circa £8k.

Legal implications

- 18 Community Asset Transfer ('CAT') is a central government policy directed at local authorities' use of their redundant assets. It operates on a discretionary basis rather than forming a 'community right' and the powers under which it takes place pre-date the Localism Act 2011. CATs are the transfer of an interest in surplus land or buildings from the council's freehold ownership into the stewardship and /or ownership of third sector organisations, at less than market value, either at a reduced cost or free of charge, usually by way of a lease. CAT can apply to community buildings which are to be managed, occupied or used primarily by the voluntary and community sector and where community-led activities for community benefit are the primary use generating profit which can be reinvested in activities which benefit the community. Most CATs take the form of a lease which is of sufficient length to secure external investment in order to develop the asset – usually at least a 25 year term.
- 19 The legal context for CAT was contained in Section 2 Local Government Act 2000 which conferred on every council the power to undertake actions which contribute to the economic or environmental well-being of the area, now superseded by the general power of competence under section 1 of the Localism Act 2011. Councils are obliged to obtain 'best value' when disposing of assets however the specific provision for CAT is provided under the Local Government Act 1972 as amended by the General Disposal Consent (England) 2003 which allows councils to transfer assets at below market value without needing Secretary of State's consent provided the undervalue is less than £2m and the transfer would contribute to economic, social or environmental policy goals. CAT should only be pursued when it represents good value in terms of generated social benefit.
- 20 Social value must be assessed and the lease will need to be accompanied by a service agreement, to secure the longer term benefits of the CAT. This will set out the agreed minimum standards, activities, how these will be measure and monitored to ensure that the community group meets all necessary requirements to achieve optimum community benefit and use of the asset.
- 21 The lease itself will need to provide that the tenant retains its community/voluntary group status and actively occupies the property for community benefit. The lease will be tailored to the individual circumstances of the transfer following an analysis of the legal title to the property however the tenant will covenant to put and keep the property in good and substantial repair, and be responsible for all outgoings including maintenance, decoration, insurance, heating, lighting etc. Assignment and subletting will not be permitted unless to another community group capable of performing the lease covenants and sustainably providing the community benefit. Forfeiture provisions will apply should any of the specified covenants be breached and not rectified in a reasonable time.

Risk management

- 22 If the transfer is not approved, then the council will retain the growing backlog maintenance and eventually have to terminate the licence as the building becomes unfit for occupation.
- 23 If the building has to close, there will be a significant amount of displacement of community activity that will lead to reputational impact. There is very little community infrastructure in this part of the city and it would be difficult to rehouse the activity that currently exists close to the present location.

24 If the licensee is not granted a transfer or the terms proposed, it is very unlikely that they will be able to secure sufficient external funding to be able to refurbish and sustain the building to its listed status. This could result in the building reverting back to Herefordshire Council with significant capital expenditure liabilities.

25 Although an independent valuation has been sought for the property, there is no guarantee that this value would be achieved if subjected to a market sale.

Consultees

26 The local ward member, Councillor Len Tawn, is supportive of the proposal.

Appendices

Appendix 1 – site location plan.

Background papers

- Friends of Castle Green Community Asset Transfer Business Plan – A Park for People. Exempt from publication by virtue of paragraph 3 (Information relating to the financial or business affairs of any particular person) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A Local Government Act 1972, as amended.