

Policy for the transfer of community assets

Introduction:

The Council has received a number of requests from town and parish councils to transfer land and property to them. The purpose of this policy is to ensure any such requests are dealt with on a fair and consistent basis. A consistent and fair approach is taken in responding to those requests.

Context:

The Council has a strong track-record of service delivery for its communities since its creation in 1974. Before that, services were delivered with equal pride by the councils that preceded it.

As such, specifically when considering land and property, the Council is only ever a long-term custodian. It is short sighted to think that divesting public land and property at this time, without a clear strategic aim, is of benefit to our communities in and of itself.

In this context our collective endeavour must be on ensuring that our residents continue to have access to those services and facilities that are important to our local communities, rather than focus on which Council owns them. This policy is designed with that key principle in mind.

Land and property types:

The Council holds land and property for broadly three reasons:

- 1) To deliver our services;
- 2) For commercial and strategic reasons; and
- 3) As custodians of land held for and on behalf of our residents and communities

Examples (this is not a conclusive list) from each category are as follows

- 1) Our HQ buildings and waste depots
- 2) Business units, car parks, investment property
- 3) Parks, open spaces, sports pitches

The Council's Position on transfers:

The Council will only consider asset transfer requests for land or property in category 3 above.

It reserves the right to say no if it judges the transfer is neither in the interest of the community or the Council and of any potential successor authority. This will include consideration being given to the long-term stewardship, operational and governance requirements and the ability for the transferee to meet those requirements.

In all cases, the transfer will require the continued use of land for its current purpose, and the Council will place such legal restrictions as are required to ensure that the land is protected in perpetuity for that use. This is non-negotiable and may take the form of either restrictive covenants or leases of typically 99 or 999 years.

Given the nature of the land and property being considered for transfer (i.e. 'community assets' as defined by this policy) and the restrictions being imposed, it is judged that the council will have met its obligations regarding achieving best consideration.

It should also be noted that each case is assessed and approved (or rejected) on an individual basis, so there can be no assumption between individual cases. Additionally, there may be land and property that does not neatly fall into the above categories, in which instances the Council will make whatever decisions it considers appropriate to meet its legal duty in those cases.

The way in which request will be dealt with:

History shows that most asset transfers take 2 years to complete and that they cost the Council significant resource to manage. The question of resources and timeframes is a critical one. To mitigate this concern, the Council will adopt the following approach:

- 1) A standard form of transfer and standard terms which are non-negotiable. All terms agreed in the heads of terms will be final and not subject to change.
- 2) The opportunity to have transfers prioritised through outsourcing of legal work, if the transferee agrees to pay for it.
- 3) The council has made additional resource available in the land and property team to manage requests (paid for by the Council).
- 4) Each town and parish to be given one opportunity to make a request, which once confirmed will proceed without further change to the scope during the process, to ensure each community has a fair chance to make such a request.
- 5) We will set a deadline (in Spring 2026 – date tbc) for towns and parishes to submit their requests and these will then be dealt with based on the simplest and most straightforward requests (which comply with the policy) being dealt with first. While we will endeavour to do so there is no guarantee that all requests can/will be processed ahead of any restrictions that may be imposed preventing disposals of land and property taking effect.

Governance:

The decision on requests for transfers will be made in accordance with the Council's scheme of delegation in chapter 2 of the constitution.

There is no right of appeal.

Land & property open market sales:

This policy has no bearing on open market sales, which the Council can and will continue to consider if it aligns to its strategic aims. This policy only relates to asset transfers, which by implication have no financial consideration.

West Devon
Borough Council

