

**TYNE AND WEAR FIRE AND RESCUE AUTHORITY**

**Item No 5**

**MEETING: 20<sup>th</sup> JULY 2015**

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**SUBJECT: SURPLUS ASSET POLICY (COMMUNITY BENEFIT)**

**REPORT OF THE CHIEF FIRE OFFICER**

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## **1 PURPOSE**

- 1.1 The purpose of this report is to seek Authority approval of a Surplus Asset (community benefit) policy to be used in determining and managing any future transfers of surplus Authority assets into community ownership and/or management.

## **2 BACKGROUND**

- 2.1 Community ownership of assets is not new, however, in recent times, community ownership and management of land and buildings has been given fresh momentum as a result of influential reports, government policy and the work of community-based organisations. In May 2007, the Department for Communities and Local Government (CLG) published 'Making Assets Work', the report of an independent review led by Barry Quirk, the Chief Executive of Lewisham Council. The review focused on the transfer of asset ownership and management to community groups. It identified the need for transparent community asset transfer policies to be implemented.

- 2.2 Under the Localism Act 2011 (part 3 chapter 5), the concept of '**assets of community value**' was introduced. District and unitary councils are required to maintain a list of 'community assets', which can be nominated by parish councils or by groups with a connection with the community (not individuals). If an asset successfully nominated as an 'asset of community value' becomes surplus to requirements, local groups will be given time to come up with a bid for the asset when it is sold. This process has become known as the '**community right to bid**'.

- 2.2 A parliamentary briefing of February 2015<sup>1</sup> indicates that:

*The right to bid only applies when an asset's owner decides to dispose of it. There is no compulsion on the owner to sell it. The scheme does not give first refusal to the community group, unlike the equivalent scheme in Scotland; and it*

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<sup>1</sup> <http://researchbriefings.files.parliament.uk/documents/SN06366/SN06366.pdf>

*is not a community right to buy the asset, just to bid. This means that the local community bid may not be the successful one.*

- 2.3 **Community asset transfer** is a government policy directed at local authorities' use of their redundant assets. It is entirely separate from the community right to bid, operating on a discretionary basis rather than forming a 'community right'.
- 2.4 The powers under which it takes place predate the Localism Act 2011. Relevant legislation includes the Local Government Act (section 123), which allows local authorities to dispose of land and buildings at best consideration; and the General Disposal Consent (England) 2003, which allows Councils to dispose of land and buildings at less than best consideration, to an undervalue of £2m subject to an assessment of whether this will contribute to social, economic or environmental well being.
- 2.5 The legislation enabling community asset transfer applies to joint authorities, which includes Fire and Rescue Authorities, as well as to principal Councils.
- 2.6 Although TWFRA has a relatively small number of property assets (land and buildings), and most of these are fully utilised in delivering services, it is considered that the Authority should have in place a policy for the determination and management of any disposals of surplus Authority assets into community ownership and/or management.

### **3 PROPOSED POLICY**

- 3.1 The draft policy statement is included below. The policy also contains a framework for the management of community asset transfer proposals, and for decision making around these. This includes working alongside relevant councils to determine community need.
- 3.2 A key premise of this policy is that surplus assets will only be considered suitable for community asset transfer if they have limited commercial value.

#### **Policy statement**

- 3.3 TWFRA recognises that it has the statutory power to dispose of assets at less than best consideration, within the legal constraints, where the disposal will secure the promotion or improvement of the economic, social or environmental well-being in the area.
- 3.4 Changing ownership or management can offer opportunities to extend the use of a building or piece of land, increasing its social value in relation to the numbers of people that benefit and the range of opportunities it offers. Community ownership can offer additional opportunities to secure resources

which the Authority would be unable to access, and potentially allows the Authority to offer support 'in kind' within a local area.

- 3.5 This needs to be balanced against the fiduciary duty of the Authority to local people to act prudently when disposing of assets, and in particular to maximise income to support the financial sustainability of the organisation, and its ability to provide a high quality service to the residents of Tyne and Wear. This is particularly pertinent in a climate of sustained annual reductions in available funding.
- 3.6 In the light of this, assets suitable for community transfer are defined as land or buildings in the ownership of TWFRA which:
- have been identified as surplus to requirements through a decision of the Fire Authority
  - have, through a formal independent valuation, been demonstrated to have limited commercial value either in terms of sale or rental.
- 3.7 Where assets do not meet these conditions, there will be a presumption that they will be exposed to the open market to seek the best commercial value for the asset. Community groups may express an interest in such properties and these will be considered alongside any commercial offers.
- 3.8 The Authority will retain discretion to dispose of assets which do not meet these conditions at less than best consideration where it considers this to be appropriate and in accordance with its statutory powers.
- 3.9 Where these conditions are met, the Authority will advertise this fact in a variety of ways subject to adequate budget provision being identified to cover the costs of this exercise. A clear procedure will be followed for the management of any proposal to transfer assets to a community/voluntary organisation.
- 3.10 For the purpose of this policy, a community/voluntary organisation is defined as a collection of individuals who come together to undertake specific activities for the benefit of the community, whatever that community might be. Such groups will be self-governing, non-profit distributing and non-statutory, with a strong emphasis on volunteering or demonstrating strong community benefit in the case of social or community enterprises.

#### **4 LEARNING AND DEVELOPMENT IMPLICATIONS**

- 4.1 This report has no learning and development implications.

## **5 ICT IMPLICATIONS**

5.1 This report has no ICT implications.

## **6 FINANCIAL IMPLICATIONS**

6.1 This report has no direct financial implications. The policy is based upon the principle of maximising income to the Authority to support financial sustainability.

## **7 RISK MANAGEMENT IMPLICATIONS**

7.1 The policy contains an assessment of high level risks and a requirement that a full risk assessment should be part of any proposed community asset transfer.

## **8 EQUALITY AND FAIRNESS IMPLICATIONS**

8.1 The policy provides a transparent process for the fair assessment of all proposals for community asset transfer.

## **9 HEALTH AND SAFETY IMPLICATIONS**

9.1 This report has no direct Health and Safety implications.

## **10 RECOMMENDATIONS**

10.1 Members are recommended to:

- a) approve the draft Community Asset Transfer policy
- b) authorise the Chief Fire Officer to make provision for it to be reflected in Standing Orders
- c) receive further reports as appropriate.