



Democratic Services

DELEGATED DECISIONS

Tuesday, 07 February 2017

17:30

Room 2 (Civic Offices)

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| 1. | Open Spaces and Play Area Transfer to Parish and Town Councils Via Community Assets Transfer Programme | 3 - 34 |
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Decision to be taken by Councillor Gifford.

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- | | | |
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| 2. | Chepstow Park in Chepstow Drive Bletchley, to be Entered into the Community Asset Transfer Programme | 35 - 40 |
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Decision to be taken by Councillor Gifford.

Wards Affected:

All Wards

ITEM 1

DELEGATED DECISION

7 FEBRUARY 2017

OPEN SPACES & PLAY AREAS TRANSFER TO PARISH AND TOWN COUNCILS VIA COMMUNITY ASSET TRANSFER PROGRAMME

Responsible Cabinet Member: Councillor Gifford – Cabinet Member for Place

Report Sponsor: Paul Sanders, Assistant Director, Community Facilities

Author and contact: Neil Hanley, Community Solutions Manager Tel 01908 253632

Executive Summary:

It is proposed that Play Areas and Open Spaces owned by Milton Keynes Council may be offered for a potential transfer under a freehold arrangement to Parish and Town Councils. In order to deliver these transfers, once a request is received a *Fast Track Community Asset Transfer (CAT)* process will be carried out. This is in line with The Council's approach to Community Asset Transfer which was refreshed and formally adopted on November 9th 2015 following a Cabinet decision.

1. Recommendation(s)

- 1.1 That the Fast Track Community Asset Transfer process be adopted.
- 1.2 That expressions of interest be invited for the delivery of the transfer of Open Spaces and Play Areas to Parish and Town Councils.

2. Issues

- 2.1 The adopted revised terms of the application will apply to Parish/Town Councils only.
- 2.2 CAT is part of a Council-wide change programme and comes under the Council's Strategic Board which considers Land, Property, and Facilities Management.
- 2.3 A review of the CAT programme identified that there is a need for formal approval (in the form of an assessment) before an asset is considered for transfer and this was agreed via a Cabinet member decision on June 9th 2015 (**Annex A**).
- 2.4 Such an approach facilitates a clear and robust assessment of the assets being entered into the programme in a transparent manner. Once the asset has been formally approved and expressions of interest (**Annex D**) priority rated according to; a) savings achieved and b) level of interest shown Parish by Parish, the applicant will undertake to complete the Fast Track CAT application (**Annex B**).
- 2.5 A recent Scrutiny Management Committee in November 2016 reinforced the need to simplify the transfer process for Open Spaces and Play Areas and recommended that the legal transaction should be a lot less onerous on the transferee (**Annex C**).

- 2.6 The Council has already set a reducing budget for play areas as part of the Medium Term Financial Plan but with continuing austerity measures the Council has to look for further savings. In general, both play areas and open space provision has no statutory requirement, other than for safety aspects falling upon the Council as landowner. If the freehold were to be transferred then the ongoing maintenance costs will then fall upon the new landowner; thus making a saving for the Council.
- 2.7 The Play Area Action Plan 2013-2023 (adopted by MKC) sets out a number of recommendations for their future management. A systematic review of all sites was undertaken and recommendations made for their future. The general premise being to reduce the numbers of poor quality badly located sites and identifying suitable sites for improvement. The end result should be a balance between, quality, quantity and accessibility. The transfer of the play areas does not contradict the policy and the assessment creates a basis for their future management by parishes or Town Councils.

3. Options

- (i) Potentially reduce the number of play areas further than currently anticipated to meet the current financial plan;
- (ii) The Parish or Town Council provides fund to this Council to continue to provide services;
- (iii) Transfer the land/play area to the local Parish or Town Council as a freehold transfer – **this is the preferred option**

4. Implications

4.1 Policy

The Council's approach to CAT was formally adopted on 31st July 2012 following a Delegated Decision. The objectives of the programme are firmly embodied within the current version of the Council Plan (2016-2020). '...We want to engage our communities...maximise social value; promote community based solutions and innovate new ways to deliver services people value...'

4.2 Resources and Risk

By taking a delegated decision on each asset entering the programme, which sets out an assessment of the appropriateness as part of the eligibility criteria, then the formal consultation process embedded within the CAT toolkit provides the assurance that all stakeholders, users and members are informed.

The toolkit has been managed and delivered in line with the MK Approach and has a Project Board and associated risk register.

Funding has been set aside within the capital programme to finance capital works that may be required to rationalise the number of play areas. Requests to use this funding will be reviewed on a case by case basis. As part of the 16/17 budget process a savings target of £100k was approved to reflect the rationalisation of play areas across Milton Keynes. The approval of the 'fast track' CAT process will enable these savings to be achieved within a faster timescale than previously estimated.

Y	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	Y	Asset Management

4.3 Carbon and Energy Management

No impact

4.4 Legal

Throughout, the Council's Legal team have been closely monitoring the impact of any legislation that might affect the progress of CAT and will continue to do so in the future. CAT transfers are for a nominal price of £1 or nil. Under the Local Government Act 1972 the Council is required to obtain the best price reasonably obtainable where transferring ownership of property but may dispose of property for less where (in general terms) to do so benefits the residents of the Borough, and the undervalue is less than £2 million. In each case where property is transferred for less than market value it is necessary for the Council to be satisfied that this does not amount to State Aid. The Council and its legal advisers will need to be mindful of both requirements in all cases, but generally transfers of small properties used by local residents are unlikely to contravene these legal requirements.

There will be procedural requirements on disposal of Public Open Space. The Council would need to advertise its intention to transfer in a local newspaper for two consecutive weeks and to consider objections (*sections 123(2A) and 127(3), LGA 1972; section 233(4), TCPA 1990*)

4.5 Other Implications

As an integral part of each transfer arrangement an Equalities Impact Assessment has been completed. (Available on request)

The CAT programme is promoted on the Council's web link applications. Ward members are invited to attend the assessment panel in line with the Terms of Reference.

Y	Equalities/Diversity	N	Sustainability	N	Human Rights
Y	E-Government	Y	Stakeholders	N	Crime and Disorder

Annexes:

Annex A – Guidance Process Fast Track CAT

Annex B – Fast Track CAT Application

Annex C & C(i) – Legal Transfer Documents for Open Spaces & Play Areas

Annex D – Expression of Interest Form

Background Papers:

Delegated Decision Report 9 June 2015: Council assets to be entered into the Community Asset Transfer Programme (CAT). [9 June 2015 - Delegated Decision - Community Asset Transfer](#)

Cabinet Decision 9 November 2015; A strategic review of the CAT programme and Way forward for the future [9 November 2015 Cabinet - A Strategic Review of the Community Asset Transfer Programme](#)

Fast Track CAT Process – Open Spaces/Play Areas

<p>1. Initial Delegated Decision</p> <p>Approve process /policy</p>
<p>2. Accept EOI's</p> <p>Clarify offer</p>
<p>3. Internal assessment by Officers</p> <p>Priority rated – scheduled according to amount of savings achieved/interest shown</p>
<p>4. Report</p> <p>Scheduled asset to Strategic Property & Facilities Management Board for approval</p>
<p>5. Delegated Decision</p> <p>Delegated decision approval needed for an asset to be put forward for consideration and entered into the programme.</p>
<p>6. Engagement, communication and information</p> <p>Assets will be priority rated and scheduled which will include where possible information about the asset and the offer</p> <p>Information will be made available on-line</p>
<p>7. Application</p> <p>The Fast Track application form is to be available on line via the web-site</p>
<p>8. Application Assessment carried out</p> <p>Upon receipt of the application, the Community Solutions Manager will review and assess (against the criteria) the application along with any additional documentation received. This requires the development of a fully detailed proposal for consideration</p>

by the Board (accompanied by a viable business plan).

The report to the assessment panel should also summarise the information gathered to date, identify any potential benefits, needs or concerns, and identify the specific support needs of the applicant going forward if the application is to progress positively.

The assessment panel shall then do one of the following:

- Refer the application to the Community Solutions Manager, with an instruction that they arrange further investigation / clarification if necessary.
- Refer the application to the Community Solutions Board and make a recommendation that;
 - a) the application should be referred to the Cabinet Member for a decision as to whether the Asset should be transferred
 - b) recommend that no further progress be made in respect of the application

Upon completion of further investigation, the assessment panel shall consider whether it accepts the Community Solutions Project Manager's findings and refer the application to the Community Solutions Board as at 2 above.

Following the submission of the application the Council must allow any staffing implications to be fully considered. During this time the Council and the community partner(s) will also be making in-principle agreements around terms of transfer, service level agreement.

9. Delegated Decision – to Cabinet Member

Final report recommending transfer and outlining terms and conditions.

A call-in procedure for this decision is in place.

10. Transfer

If 'yes', then negotiate final terms.

3- 6 months to accommodate the timescales of the variety of interested parties to finalise the transfer of assets.

Assessment Panel – process and guidance

To ensure an open and fair process towards each application the CAT assessment panel will need to include representatives from the voluntary sector, ward and parish councillors (where no conflict of interest arises, and nominated via the Parishes Forum), and senior Council officers. The assessment panel would consist of the following representatives:

Council's Property Services Officer

Council's Senior Legal Services Officer

Business Support Officer HR

Council's Equalities Officer

Voluntary Representative

Ward Councillor

Parish Councillor (Unless they are applicant)

(As appropriate to the locality of the asset being transferred)

Council's Community Solutions Manager

Council's Service Manager

(As appropriate to the type of asset being transferred)

The applicant will be invited to attend the panel.

The panel will be advised by the Community Solutions Manager (CSM) who will provide a report on the application to the panel, and will be chaired by the Community Solutions Manager.

Assessment Panel Purpose

This will be to receive and consider applications for Community Asset Transfer and make recommendations to the Community Solutions Board, based on local experience as to the extent to which the applicants meet the criteria set out in the application. Further to this the assessment panel plays an important role in quality checking the applications and ensuring that full information is supplied by the applicant in order that the panel may make a recommendation, and to allow the Community Solutions Board to make a decision as to whether the application should be allowed to progress.

Assessment Panel Membership Terms of Reference

(a) The assessment panel is established to receive applications and the covering report from the Community Asset Transfer programme and each meeting must be chaired by the Community Solutions Manager.

(b) Upon receipt of each application and any accompanying report by the Community Solutions Manager which includes an initial assessment of the application against the criteria set out in the application, the assessment panel shall then do one of the following:

- Refer the application to the Community Solutions Manager, with an instruction that they arrange further investigation / clarification if necessary.
- Refer the application to the Community Solutions Board and make a recommendation that;
 - a) The application should be referred to the Cabinet Member for a decision as to whether the Asset should be transferred or
 - b) No further progress should be made in respect of the application;

Declarations of interest

Members of Milton Keynes Council and Parish Councils are reminded that they are bound by their Codes of Conduct when undertaking any business of their authority, including the provisions for declarations of interest.

Members of the Voluntary and Community Sector sitting on the panel are asked to consider, prior to taking part in the decision, whether they believe a conflict of interest exists. If a conflict does exist members are asked to consider whether it is appropriate for them to remain on the panel, and if appropriate are asked to identify a substitute in line with the provisions below.

No person shall be appointed to a panel who has a close family, personal or business relationship with the applicant, or with any other person involved in the assessment or who are themselves a potential stakeholder relating to the matter.

Substitution

The Council's normal scheme allowing substitute members to be appointed (which applies only to councillors and only within the same political groups) shall not apply to appointments to assessment panels. However it is possible that significant personal interests in a particular matter may become apparent only after appointment to a panel considering that matter. It is also possible that a member appointed to a panel may become unable to sit for some other reason at short notice e.g. by reason of illness.

In order to minimise the risk of cancellation of panel meetings, replacement members should be permitted on the following terms:

1. Any appointed member who finds themselves unable to sit must notify the Community Solutions Programme Manager as soon as reasonably practicable
2. A replacement member will be identified by the Community Solutions Programme Manager
3. The replacement member must be identified and provided with all relevant papers in reasonable time to enable him/her to prepare for the meeting of the panel.

Dispute resolution

Any disputes on the progress of an application should be highlighted to the Community Solutions Board to consider when making their decision

An Appeals panel has been developed in the likelihood of this happening and the terms of reference are highlighted below:

Appeals Panel Membership

All

- Milton Keynes Council Members
- Community and Voluntary Sector Representatives

Shall be considered valid potential members of an Appeals Panel and for each meeting of the Panel one person shall be drawn from each of the 3 categories of membership.

The Appeals Panel would consist of the following representatives:

Voluntary Representative

Existing Management representative of the asset (i.e. Management Committee Member / Trustee as applicable)

Ward Councillor

THE NAMED ORGANISATION leading the panel's process - Independent Charitable / Incorporated group

The Appeals Panel will be chaired by the NAMED ORGANISATION leading the panel's process.

Appeals Panel Purpose

The panel will exist in order to:

- *receive and consider appeals for Community Asset Transfer*

- analyse the extent to which the potential new applicants meet the criteria now set out in the application

- make recommendations to the Community Solutions Project Board based on the further evidence received

Further to this the Appeals Panel plays an important role in providing an independent quality-check against any new applicant who might feel aggrieved by a previous decision and ensuring that full information on the application is made available, both to allow the Appeals Panel to make a recommendation, and to allow the Community Solutions Project Board to make a thoroughly informed decision as to whether the application should be allowed to continue / run alongside as a competitive submission.

(a) The Appeals Panel was established to receive applications along with a covering report detailing the challenge, and each meeting must be chaired by the NAMED ORGANISATION.

(b) Upon receipt of each appeal and accompanying report by the Community Solutions Project Board, which will include the criteria set out in the new application, the Appeals Panel shall then do one of the following:

11. Refer the new application to the Community Solutions Manager, with an instruction that he/she arrange further investigation/clarification if necessary.
12. Refer the new application to the Community Solutions Project Board and make a recommendation that either:
 - a) The application should proceed alongside existing CAT applicant;
 - b) No further progress should be made in respect of the application.
13. Upon completion of further investigation by or on behalf of the Project Officer, the Appeals Panel shall consider whether or not it accepts the Community Solutions Project Officer's findings and refer the application to the Community Solutions Project Board as at 2 above.
14. The Appeals Panel will give reasons for its recommendations
15. In respect of a new Application, the Appeals Panel will refer the application to the Community Solutions Board and either:
 - a) Recommend that the current application should be referred to the Cabinet Member for a decision as to whether the Asset should be transferred, or

- b) Recommend that no further progress should be made in respect of the current application.

Declarations of interest

Members of Milton Keynes Council are reminded that they are bound by their respective Codes of Conduct when undertaking any business of their authority, including the provisions for declarations of interest.

Members of the Voluntary and Community Sector sitting on the Panel are asked to consider, prior to taking part in the decision, whether or not they believe a conflict of interest exists. If a conflict does exist members are asked to consider whether it is appropriate for them to remain on the panel, and if appropriate are asked to identify a substitute in line with the provisions below.

No person shall be appointed to a Panel who has a close family, personal or business relationship with the applicant, or with any other person involved in the assessment or who is himself/herself a potential stakeholder relating to the matter.

The Business Case made to MK Council by the Community Partner is the single most important document to inform the decision about whether to proceed with the transfer. If you have any queries about the form please contact neil.hanley@milton-keynes.gov.uk or 01908 253632.

Although Community Partners should feel free to structure the business plan in anyway they see fit, any business plan presented to the Council must *at minimum* contain the following:

CAT APPLICATION FORM

*Have you previously made a successful asset transfer? Y / N (circle as appropriate)

Applicant Details

Name of applicant: Tel:

Asset being applied for: E-mail:

Name of organisation: Web site:

Address of organisation:

.....

.....

Legal status: (Charity / CIC / Parish Council/Town Council) / Other (please describe):

Registration Number: Date of incorporation / registration:/...../.....

Governing Document: Mem and Arts / Constitution / Standing Orders / Other (please describe):

Names of Trustees / Directors:

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.....
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Staff relevant to management of asset:

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.....

Executive Summary

**No more than 1 side of A4. Note - this is your opportunity to demonstrate your business case and justify why you want to take this asset.*

Relevant Experience

**This is to demonstrate that you have experience in running an asset and/or managing a project. This section exists to give you a chance to prove that you understand governance and financial management, along with insurance and liabilities. You should show how your organisation plans / runs / manages a project and how you assess the viability of a project and respond to changes that might occur during the process. You may wish to demonstrate your experience in raising funding and managing policies.*

Policies we would expect to see include: Health and Safety, Equalities and Diversity, Financial Management and Reserves policy, Declaration of Interest, Safeguarding policy, (DBS), conflict of Interest

Managing the Asset / Community Service Delivery

**You must list all assets currently being managed by your organisation and indicate whether or not it is directly responsible for all aspects of management or under lease agreements. In the event of the organisation not having had this responsibility can you demonstrate that your organisation has these skills or that you would recruit someone with these skills. If you are recruiting please attach a job description. This is also your proposal for managing the asset. This should include staffing (including management structure and the roles taken by staff full and p/time)) volunteers, hiring policy, (what hire arrangements / lease user groups have and their booking status) hire rates. You must confirm suitable induction or training systems are in place and available for review by MKC if needed. You should indicate if you have any future plans for the asset e.g. development of the facility and explain the added/social value of your organisation managing the asset.*

Promoting the Asset

**What are your plans to advertise and generate community interest in the asset? Have you engaged with the users of the asset? If so describe how? You are required to demonstrate that your organisation has engaged with users and has discussed its application with them. Evidence of this can include leaflets, surveys, letters of support from user groups, list of groups currently using the asset (if applicable). A broad range of user-groups suggests that your organisation is genuinely open and accessible to all people it seeks to manage.*

Finances

**you must be able to supply a copy of your organisation's annual accounts for the last two accounting periods. Also please show the financial projections for the next 3 years. An example cashflow is available in the Toolkit document. You should increase your costs by 3% each year. If you are a Parish/Town Council you should demonstrate how the budget will be managed within your overall budget (budget code). What are your plans for covering any deficit? You should demonstrate how you will build a maintenance reserve.*

Risk Assessment

**Please complete a risk assessment for the project. How you will mitigate any risks? A template for risk assessment is provided in the Toolkit document.*

Please save this form for your own records and send as an e-mail attachment to: neil.hanley@milton-keynes.gov.uk along with any supporting documentation.

If you prefer to submit this application in hard copy then please print it out and post it, along with any supporting documentation, to:

Neil Hanley
Community Solutions Programme
Manager
2nd Floor, Saxon Court,
502 Avebury Boulevard
Milton Keynes
MK9 3HS

Scoring methodology for questions out of 3:

- 0 = response does not meet criteria and/or is unacceptable
- 1 = response partially meets requirements but contains material weakness, issues or omissions and/or is inconsistent
- 2 = Response fit for purpose. Good in many respects. No significant weaknesses, issues or omissions
- 3 = Response meets criteria to exceptional standard. Robust and detailed in all material respects. Minimal omissions

7	Transferee's intended address(es) for service for entry in the register:
8	The transferor transfers the Property to the transferee
9	<p>Consideration</p> <p><input checked="" type="checkbox"/> The transferor has received from the transferee for the Property the following sum (in words and figures): One Pound (£1.00)</p> <p><input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input checked="" type="checkbox"/> Insert other receipt as appropriate:</p> <p><input type="checkbox"/> The transfer is made in consideration also of the covenants on the part of the transferee hereinafter contained</p>
10	<p>The transferor transfers with</p> <p><input type="checkbox"/> full title guarantee</p> <p><input checked="" type="checkbox"/> limited title guarantee</p>
11	<p>Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p><input type="checkbox"/> they are to hold the property on trust:</p>
12	<p>Additional provisions</p> <p>12.1 In this transfer the following words and phrases shall have the following meanings:</p> <p>“dispose” has the meaning given in section 205(1) of the Law of Property Act 1925 and “disposal” shall be interpreted accordingly</p> <p>[“the Lease” means the lease of the property dated _____ and made between (1) and (2) together with all deeds and documents supplemental to it at the date of this transfer]</p> <p>“the Retained Land” means the land in the title aforementioned but excluding the Property</p> <p>12.2 The Transferee hereby covenants with the Transferor so as to bind so far as may be the Property into whosoever hands the same may come that the Transferee and persons deriving title under it will at all times hereafter</p> <p>12.2.1 not use or permit the use of the Property or any part of the Property for</p>

any commercial purposes other than those supporting and ancillary to the primary purpose of use as []; and

12.2.2 in the event that there are any monies arising from use of the Property or any part of the Property for any commercial purposes supporting and ancillary to the primary purpose of use referred to at paragraph 12.2.1 above then not to use those monies other than wholly applying or re-investing said monies for the benefit of the community and community projects and it is agreed that Section 33 Local Government (Miscellaneous Provisions) Act 1982 applies to this clause

12.3 The Transferor and the Transferee hereby apply to the Land Registry for the entry of the following restriction on the Proprietorship Register of the title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate or of the proprietor of any charge is to be registered without a certificate signed by the Council of the Borough of Milton Keynes of Civic Offices 1 Saxon Gate East Milton Keynes MK9 3EJ or its conveyancer that the provisions of clause [XX] of this have been complied with or that they do not apply to the disposition".

The Transferor and the Transferee shall co operate and use all reasonable endeavours to secure the registration of such restrictions against the title to the Property at the Land Registry as soon as reasonably possible.

12.5 The Transferee covenants with the Transferor not to dispose of the Property or any part or any other estate or interest in it to any person without first ensuring that the person has executed a deed directly with the Transferor containing the covenants and provisions of clause 12.2 of this transfer mutatis mutandis including this present covenant and including an application to the Land Registry for restrictions in the same terms as clause 12.3 of this transfer to be registered in respect of the Property or the relevant part.

12.9.4 the Property shall be returned to the Transferor in no worse condition than as at the date of this Transfer and evidenced by the Condition Survey of even date and annexed to this Transfer at Annexure 1.

12.11 The Property is transferred:

12.11.1 subject to the matters referred to in the register of title aforementioned insofar as the same relate to or affect the Property

12.11.2 subject to all easements quasi-easements rights exceptions or similar matters affecting the Property whether or not apparent on inspection

[12.11.3 subject to the Lease]

but the operation of section 62 of the Law of Property Act 1925 is excluded

12.13 There are reserved to the Transferor for the benefit of the Retained Land all easements quasi-easements rights privileges and advantages over the Property that would by virtue of section 62 of the Law of Property Act 1925 have passed on a conveyance or transfer of the Retained Land to a third party if that conveyance or transfer had been completed prior to the date of this present transfer and there had been diversity of occupation at that date

12.14 The Transferee covenants with the Transferor by way of indemnity only against all actions proceedings costs claims and demands arising out of any breach by the Transferee or its successors in title of the covenants, obligations, restrictions,

stipulations or other matters contained or referred to in the property and charges registers of the title number referred to in Panel 1

12.15 [The Property is transferred subject to and with the benefit of the Lease. The Transferee covenants with the Transferor by way of indemnity only that the Transferee will comply with the landlord's obligations contained in the Lease throughout the Liability Period and will indemnify the Transferor against all actions, claims, demands and proceedings taken or made against the Transferor and all costs damages expenses liabilities and losses incurred by the Transferor arising from their breach]

12.16 No rights are granted pursuant to the Contracts (Rights of Third Parties) Act 1999 in this transfer

13 Execution

The Common Seal of **THE COUNCIL OF THE
BOROUGH OF MILTON KEYNES**
was hereunto affixed in the presence of:

Executed as a deed by
[Transferee]

© Crown copyright (ref: LR/HO) 10/12

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

7	Transferee's intended address(es) for service for entry in the register:
8	The transferor transfers the Property to the transferee
9	Consideration <input checked="" type="checkbox"/> The transferor has received from the transferee for the Property the following sum (in words and figures): One Pound (£1.00) <input type="checkbox"/> The transfer is not for money or anything that has a monetary value <input checked="" type="checkbox"/> Insert other receipt as appropriate: <input type="checkbox"/> The transfer is made in consideration also of the covenants on the part of the transferee hereinafter contained
10	The transferor transfers with <input type="checkbox"/> full title guarantee <input checked="" type="checkbox"/> limited title guarantee
11	Declaration of trust. The transferee is more than one person and <input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants <input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares <input type="checkbox"/> they are to hold the property on trust:
12	Additional provisions 12.1 In this transfer the following words and phrases shall have the following meanings: “Additional Sum” means in relation to the whole of the Property or the relevant part such sum as is equivalent to the Market Value after deducting therefrom the Improvement Value (if any) “Breach of Covenant” means any breach at any time of any of the covenants contained in clause 12.2.1 of this Transfer “Breach Notice” means a notice in writing given at any time by the Transferor to the Transferee stating that there has occurred a Breach of Covenant and stipulating the nature of the breach “Default Notice” means a notice in writing given at any time by the Transferor to the Transferee stating that a Breach of Covenant has occurred after the Initial Date

“dispose” has the meaning given in section 205(1) of the Law of Property Act 1925 and “disposal” shall be interpreted accordingly

~~“**Improvement Value**” means the value to the Transferor of any improvements to the Property carried out by the Transferee; and in assessing such value:~~

~~(1) for the avoidance of doubt any reference to “value” is to be construed in contra-distinction to the cost of such improvements~~

~~(2) a discount of 2% per annum shall be applied from the date of completion of the improvements to the date of the Trigger Event~~

~~“**Initial Date**” means the fourteenth day after the date of a Breach Notice~~

~~“**Final Date**” means the fourteenth day after the date of a Default Notice~~

[**“the Lease”** means the lease of the property dated _____ and made between (1) and (2) together with all deeds and documents supplemental to it at the date of this transfer]

~~[**“the Liability Period”** means a period from and including the date of this transfer to and including the end of the term of years granted by the Lease and any continuation of it]~~

~~“**Market Value**” means the market value (according to the principles of the edition current at the relevant time of the publication known as “RICS Valuation – Professional Standards” or such other relevant publication as the Transferor may nominate) of the Property or the relevant part based on the actual use that is taking place and on the assumption that the Property is not subject to the covenants set out in clause 12.2.1–~~

~~“**Pre-emption Agreement**” means an agreement having the same date as this transfer and made between the same parties and relating to the Property~~

“the Retained Land” means the land in the title aforementioned but excluding the Property

~~“**Trigger Event**” means a Breach of Covenant occurring at any time after the Final Date~~

12.2 The Transferee hereby covenants with the Transferor so as to bind so far as may be the Property into whosoever hands the same may come that the Transferee and persons deriving title under it will at all times hereafter:

12.2.1 not use or permit the use of the Property or any part of the Property for any commercial purposes other than those supporting and ancillary to the primary purpose of use as [_____]; and

12.2.2 manage the Property in accordance with the Transferor’s Property Strategy and in line with the Commercial Landlord’s Accreditation Scheme as drafted from time to time in the event that there are any monies arising from use of the Property or any part of the Property for any commercial purposes supporting and ancillary to the primary purpose of use referred to at paragraph 12.2.1 above then not to use those monies other than wholly applying or re-investing said monies for

the benefit of the community and community projects.

and it is agreed that Section 33 Local Government (Miscellaneous Provisions) Act 1982 applies to this clause

- 12.3 The Transferor and the Transferee hereby apply to the Land Registry for the entry of the following restrictions on the Proprietorship Register of the title to the Property:

~~“No disposition of the registered estate by the proprietor of the registered estate or of the proprietor of any charge is to be registered or noted without a written consent signed on behalf of the Council of the Borough of Milton Keynes of Civic Offices 1 Saxon Gate East Milton Keynes MK9 3EJ by its conveyancer”~~

~~“No disposition of the registered estate by the proprietor of the registered estate or of the proprietor of any charge is to be registered without a certificate signed by the Council of the Borough of Milton Keynes of Civic Offices 1 Saxon Gate East Milton Keynes MK9 3EJ or its conveyancer that the provisions of clause [XX] s 4 and 8 of this Pre-emption Agreement dated _____ day of _____ made between [the Transferee and the Transferor] have been complied with or that they do not apply to the disposition”.~~

The Transferor and the Transferee shall co operate and use all reasonable endeavours to secure the registration of such restrictions against the title to the Property at the Land Registry as soon as reasonably possible.

12.4.

~~12.4.1 If a Trigger Event occurs in relation to the Property or any part of it, the Transferee must pay the Additional Sum to the Transferor. The Additional Sum must be paid to the Transferor or its successors in title by direct credit within 42 days of the date of the Trigger Event. It is expressly agreed that if the Additional Sum is not paid within such period, the Transferor or its successors in title shall be entitled to interest on it at 3% a year above the base rate of the National Westminster plc, such interest to be calculated on a daily basis from the last date for payment under the terms of this clause until the date of actual payment of the Additional Sum. Credit shall be given for any previous payment of an Additional Sum in relation to the Property or the part affected by the Trigger Event in question.~~

~~12.4.2 In the event that the sums payable pursuant to clause 12.4.1 are not paid to the Transferor within the timescale set out in clause 12.4.1 it shall be lawful for the Transferor (without prejudice to any other right or remedy which may be vested in it and notwithstanding any actual or constructive waiver of any previous right of re entry or other right or remedy) to enter the Property or any part in the name of the whole and thenceforth hold and enjoy the same in fee simple in possession free from incumbrances or any derivative estates or interests. On the exercise of such right of re entry the Transferor shall become entitled to delivery of all title deeds relating to the Property~~

- 12.5 The Transferee covenants with the Transferor not to dispose of the Property or any part or any other estate or interest in it to any person without first ensuring that the person has executed a deed directly with the Transferor containing the covenants and provisions of clauses ~~12.2, 12.4, 12.5, 12.6, 12.7 and 12.10~~ of this transfer mutatis mutandis ~~and the Pre-emption Agreement~~ including this present covenant

and including an application to the Land Registry for restrictions in the same terms as clause 12.3 of this transfer to be registered in respect of the Property or the relevant part.

~~12.6 The Transferee shall maintain a reinvestment fund operating as follows:-~~

~~12.6.1 The Transferee shall maintain independently audited accounts showing all income received (whether paid to or held by the Transferee or any agent, company or person acting on behalf of the Transferee) in relation to the Property and costs incurred in relation to the Property with such supporting evidence as shall be reasonable and the Transferee shall keep such records in support of the same as are reasonable and appropriate to demonstrate such income and expenditure.-~~

~~12.6.2 The Transferee shall provide independently audited accounts of such income and costs to the Transferor yearly on each anniversary of this Transfer and shall afford to the Transferor all such access and co operation as necessary to enable the Transferor to carry out its own audit of such income and costs including access to the relevant records. The amount (if any) by which the income exceeds the costs in any year shall be allocated to a fund ("the Fund") to be maintained by the Transferee and applied only in relation to the repair maintenance or improvement of the Property.~~

~~12.7 Upon the date of the transfer to or other vesting of the Property in the Transferor pursuant to the Pre-emption Agreement or the provisions of clause 12.4.2 hereof the unexpended balance of the Fund as at that date shall be paid by the Transferee to the Transferor.-~~

~~12.8 The Transferee grants to the Transferor the right ("the Option") to acquire the freehold interest in the Property for £1 (one pound), the Option being exercisable at any time after any sum under clause 12.4.1 has not been paid at the due time and until such sum has been received (and once exercised, the Option shall remain binding upon the Transferee notwithstanding subsequent payment of such sum) by service of written notice to that effect by the Transferor upon the Transferee~~

~~12.9 Following exercise of the Transferor's option under clause 12.8:~~

~~12.9.1 a binding agreement for the sale and purchase of the Property shall have been created;~~

~~12.9.2 the transfer of the Property shall be completed on the twentieth working day after service of the Transferor's notice under clause 12.8 in such form as the Transferor may direct;~~

~~12.9.3 the Property shall be transferred with limited title guarantee, with vacant possession and free of all financial charges~~12.9.4 the Property shall be returned to the Transferor in no worse condition than as at the date of this Transfer and evidenced by the Condition Survey of even date and annexed to this Transfer at Annexure 1.

~~12.10 Without prejudice to the covenants on the part of the Transferee contained in the Pre-emption Agreement (and excluding Exempt Disposals as therein defined) the Transferee covenants with the Transferor not without the written consent of the Transferor to dispose or agree to dispose of the Property or any part thereof or grant~~

~~or agree to grant any interest or right over or make any declaration of trust in respect of the Property or any part thereof~~

12.11 The Property is transferred:

12.11.1 subject to the matters referred to in the register of title aforementioned insofar as the same relate to or affect the Property

12.11.2 subject to all easements quasi-easements rights exceptions or similar matters affecting the Property whether or not apparent on inspection

[12.11.3 subject to the Lease]

but the operation of section 62 of the Law of Property Act 1925 is excluded

12.13 There are reserved to the Transferor for the benefit of the Retained Land all easements quasi-easements rights privileges and advantages over the Property that would by virtue of section 62 of the Law of Property Act 1925 have passed on a conveyance or transfer of the Retained Land to a third party if that conveyance or transfer had been completed prior to the date of this present transfer and there had been diversity of occupation at that date

12.14 The Transferee covenants with the Transferor by way of indemnity only against all actions proceedings costs claims and demands arising out of any breach by the Transferee or its successors in title of the covenants, obligations, restrictions, stipulations or other matters contained or referred to in the property and charges registers of the title number referred to in Panel 1

12.15 [The Property is transferred subject to and with the benefit of the Lease. The Transferee covenants with the Transferor by way of indemnity only that the Transferee will comply with the landlord's obligations contained in the Lease throughout the Liability Period and will indemnify the Transferor against all actions, claims, demands and proceedings taken or made against the Transferor and all costs damages expenses liabilities and losses incurred by the Transferor arising from their breach]

12.16 No rights are granted pursuant to the Contracts (Rights of Third Parties) Act 1999 in this transfer

13 Execution

The Common Seal of **THE COUNCIL OF THE
BOROUGH OF MILTON KEYNES**
was hereunto affixed in the presence of:

Executed as a deed by
[Transferee]

© Crown copyright (ref: LR/HO) 10/12

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.



**EXPRESSION OF INTEREST IN AN MKC COMMUNITY ASSET
Open Spaces & Play Areas**

This form does not constitute any commitment to proceed by either party

Please return by **XXXX** to the address below

Your Organisation

Contact Name & Position

Telephone

Email.....

Expression of Interest for (name of locality / Parish /Organisation) together with attached copy of the minutes confirming the Parish /Town Councils/Organisations interest.

.....
.....

Asset(s) your organisation wishes to be considered for, with your initial comments.

.....
.....
.....
.....

Signature

On behalf of

PTO for further information

It might be helpful to start considering some of the issues that would need to be resolved:

1. Organisation's capacity and resources to manage open space and play areas? What is the view of your financial advisers?
2. Would anyone need to monitor the transferred asset?
3. Would the transfer have an affect on other services?
4. Is there an existing contract/lease in place?
5. What are the running costs of the service?
6. Are there any implications for costs or public liability insurance?
7. Do the local community support the request?
8. Are there implications for staff transfers?

Please return to Neil Hanley (Community Solutions Programme Manager)
Community Facilities, Milton Keynes Council, 502 Avebury Boulevard, Milton Keynes, MK9
3HS

Tel: (01908) 253632 email: neil.hanley@milton-keynes.gov.uk

Wards Affected: Bletchley Park

DELEGATED DECISION

7 FEBRUARY 2017

CHEPSTOW PARK IN CHEPSTOW DRIVE BLETCHLEY, TO BE ENTERED INTO THE COMMUNITY ASSET TRANSFER PROGRAMME (CAT).

Responsible Cabinet Member: Councillor Gifford Cabinet Member for Place

Report Sponsor: Paul Sanders, Assistant Director, Community Facilities Tel (01908) 253639

Author and contact: Neil Hanley, Community Solutions Programme Manager Tel (01908) 253632

Executive Summary:

It is proposed that **Chepstow Park** be added to the CAT Programme. A broad evaluation of the appropriateness of this asset entering the programme has been carried out (**Annex**) and it is proposed that this asset be released for transfer following the Fast Track CAT Process as outlined in the delegated decision report: *Open Spaces and Play Areas transfer to Parish / Town Councils via CAT Programme (7th February 2017)*

1. Recommendation(s)

- 1.1 That Chepstow Park be added to the Community Asset Transfer programme.

Issues

Background

- 2.1 The Council owns the freehold of all the land under three Land Registry title numbers, including an Allotment site which would be included if the Community Asset Transfer (CAT) freehold was to take place.
- 2.2 There appears to be a sewage pumping station in the park which will need to be addressed in terms of wayleaves and access. There are publically adopted paths within the park.
- 2.3 The site is designated in the Council's Development Plan as recreation and open space and is therefore afforded protection from associated policies. A percentage of the site, associated with the railway corridor is also designated as a wildlife corridor.
- 2.4 A review of the CAT programme identified that there is a need for formal approval (in the form of an assessment) before an asset is considered for transfer and this was agreed via a Cabinet member decision on 9 June 2015.
- 2.5 Asset Assessment (**Annex**)

Chepstow Park has been assessed against the following tests:

- The revenue cost to the council
- The potential future liability in terms of capital investment requirements.
- Strategic value to the Council
- Possible income generating opportunities to the Council.
- Potential development opportunities.

- 2.6 No single aspect is considered more important than another but a balanced appraisal has been completed. Such an approach facilitates a clear and robust assessment of the asset being entered into the programme in a transparent manner.
- 2.7 A report was taken to the Strategic Property & Facilities Management Board on 11 January to explore the issues and options available as outlined below and in the **Annex** In consideration of these the Board subsequently approved Chepstow Park to be considered suitable for the CAT programme.
- 2.8 It is worth noting that local interest in asset has in part led to the CAT assessment of this asset. (West Bletchley Council Expression of Interest received 2 September 2016) This does not necessarily mean it will transfer but the Council will be working with West Bletchley Council on the future ownership and management of the Youth Centre through this process.

3 Options

Option 1 – Do Nothing

This option would be for the Council, as freehold owner, to continue taking landlord- related responsibility for Chepstow Park, its liabilities and relevant investment in the future. However, this does not recognise the value of ‘Localism’ enabling local community partners to take more responsibility for local assets and to empower these new arrangements with this organisations that may be best-placed to achieve this.

Option 2 – Community Asset Transfer - this is the preferred option

Transfer the Park & associated play areas (with documented rights of access) via CAT under a freehold arrangement. A CAT assessment and score has been carried out as to the suitability of this asset to enter the programme (**Annex**).

4 Implications

4.1 Policy

The Council’s approach to Community Asset Transfer was refreshed and formally adopted on 9 November 9 2015 following a Cabinet decision.

The objectives of the programme are firmly embodied within the current version of the Council Plan (2016-2020). *‘...We want to engage our communities...maximise social value; promote community based solutions and innovate new ways to deliver services people value...’*

4.2 Resources and Risk

By taking a delegated decision on each asset entering the programme, which sets out an assessment of the appropriateness, then the formal consultation process embedded within the CAT toolkit provides the assurance that all stakeholders, users and members are informed.

Savings of £19.4k relating to the potential transfer of Chepstow Park have been included in this Council’s Medium Term Financial Savings projection for 2017/18

Y	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	Y	Asset Management

4.3 Carbon and Energy Management

No impact

4.4 Legal

Throughout, the Council's Legal team have been closely monitoring the impact of any legislation that might affect the progress of CAT and will continue to do so in the future. CAT transfers are for a nominal price of £1 or nil. Under the Local Government Act 1972 the Council is required to obtain the best price reasonably obtainable where transferring ownership of property but may dispose of property for less where (in general terms) to do so benefits the residents of the Borough, and the undervalue is less than £2 million. In each case where property is transferred for less than market value it is necessary for the Council to be satisfied that this does not amount to State Aid. The Council and its legal advisers will need to be mindful of both requirements in all cases.

If a bid for this property via the CAT process is successful, the Council will need to authorise the transfer by a further decision in accordance with the Council's constitution, including the Executive Scheme of Delegation and the Acquisition and Disposal of Land and Buildings Rules.

There will be procedural requirements on disposal of Public Open Space. The Council would need to advertise its intention to transfer in a local newspaper for two consecutive weeks and to consider objections ([sections 123\(2A\) and 127\(3\), LGA 1972](#); [section 233\(4\), TCPA 1990](#))

4.5 Other Implications

As an integral part of each transfer arrangement an Equalities Impact Assessment has been completed. **(Available on request)**

The CAT programme is promoted on the Council's web link applications. Ward members are invited to attend the assessment panel in line with the Terms of Reference.

Y	Equalities/Diversity	N	Sustainability	N	Human Rights
Y	E-Government	Y	Stakeholders	N	Crime and Disorder

Annex: CAT Asset Assessment Table for Chepstow Park

Background Papers:

Delegated Decision Report 9 June 2015: Council assets to be entered into the Community Asset Transfer Programme (CAT). [9 June 2015 - Delegated Decision - Community Asset Transfer](#)

Cabinet Decision 9 November 2015; A strategic review of the CAT programme and Way forward for the future [9 November 2015 Cabinet - A Strategic Review of the Community Asset Transfer Programme](#)

CAT ASSESSMENT TABLE - Chepstow Park

CAT ASSESSMENT TABLE - Chepstow Park							
Site Details	Test 1 - Strategic value to MKC?	Test 2 - Interest with local community to take on	Test 3 - potential future liability - invest requirements	Test 4 Revenue Saving or income CF Landscape Maint.			test 5 - potential development / commercial opportunities
<p>The Council owns the freehold of all the land under 3 Land Registry title numbers: There appears to be a sewage pumping station in the park which will need to be addressed in terms of wayleaves and access. There are publically adopted paths within the park. (Check Highways)</p>	<p>none - It's open space designation, landscape features and multi-functionality</p>	<p>Expression of Interest received from West Bletchley Council</p>	<p>landscape maintenance and cleaning (play areas)</p>	<p></p>	<p>16K</p>	<p>3.4K</p>	<p>There is no housing allocation within the park which is currently zoned as Recreation and Open Space. There is also a large Wildlife Rail Corridor.</p>
	2	3	2		2		3

12/15 score high score indicates suitability for CAT

Assessment Process

We have allocated three marks to each assessment criteria to test suitability for CAT.

- 0 = response does not meet criteria and/or is unacceptable
- 1 = response partially meets requirements but contains material weakness, issues or omissions and/or is inconsistent
- 2 = Response fit for purpose. Good in many respects. No significant weaknesses, issues or omissions
- 3 = Response meets criteria to exceptional standard. Robust and detailed in all material respects. Minimal omissions

The matrix used to score the assessment are set out below:

Scoring Matrix

Criteria	Marks Allocated
Strategic value to MKC	2
Expressions of interest for CAT	3
Potential future liability /investment requirements	2
Revenue Saving or current income derived	2
Potential development / Commercial opportunities	3
Total Marks Available	15

