

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

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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](#)