

Committee: Cabinet

Date of meeting: 17 December 2020

Title of Report: Community Asset Transfer of Walkmill Community Woodland – Grant of a Long Term Lease

Report by: Angela Jones, Executive Director – Economy & Infrastructure

Cabinet Member: Cllr David E Southward MBE, Cabinet Member for Economic Development & Property

Cllr Deborah Earl, Cabinet Member for Public Health and Community Services

What is the Report About? (Executive Summary)

1. This report proposes a Community Asset Transfer as detailed below:

The grant of a long-term lease (99 years) on a full repairing and insuring basis (FRI) of the Walkmill Community Woodland to Moresby Parish Council (transfer at undervalue) for nil rent.

Recommendation of the Executive Director

2. Cabinet agree the grant of a long-term lease (99 years) on a FRI basis of Walkmill Community Woodland to Moresby Parish Council (Community Asset Transfer/Transfer at Undervalue) for nil rent.

Cabinet delegates authority to the Executive Director – Economy and Infrastructure in consultation with the Leader, Deputy Leader and Portfolio Holder, to finalise the detailed terms of and complete the long lease.

Community Asset Transfer Policy

3. Community Asset Transfer (CAT) means the management and/or ownership of public assets is transferred to community groups. For Cumbria County Council, this is one of the options available to support thriving communities who can benefit from assets owned by the authority that are now surplus to requirements. It can give local people and communities the opportunity to take greater control of assets in their local area.
4. Asset transfers will generally be by means of a long-term lease (between 25 and 99 years) or a freehold transfer, the terms of which will be agreed at the time of each individual transfer.
 - a. In some cases the Council will consider a short term lease (five years) to an organisation with a view to moving to a position where a long term

lease would be sustainable or a freehold transfer where community benefit organisations can demonstrate enhanced community benefits.

5. When considering short tenancies, this is an Executive Director decision to be taken in accordance with section 123 of the Local Government Act 1972 and the power delegated in the Constitution.
6. The organisation taking ownership (leasehold or freehold) will be responsible for all issues associated with the use and operation of the property. For example:
 - Upkeep, repair and maintenance of the asset;
 - All running costs, including insurance;
 - Compliance with statutory and legislative requirements, including inspections and health and safety requirements and the Council's Safeguarding Policy.
7. In all cases involving transfer of ownership/occupation, appropriate mechanisms will be put in place to protect the financial and legal position of the Council, such as restrictions on use, clawback provisions and break clauses. For example, in the case of a long term lease we will write into such leases an appropriate provision (e.g. forfeiture or break clause) under which the asset would revert back to the Council, such as:
 - In the case of bankruptcy/insolvency;
 - In the case of corruption;
 - In case of non-payment of rent (if applicable);
 - In the case of non-performance of other terms such as breach of repairing obligations and unauthorised change of use (if applicable);
 - If the transfer agreement is breached;
 - If the organisation wishes to develop and move into bigger premises.
8. With freehold transfer of ownership the Council may also consider (in addition to the restrictions on use and clawback provisions referred to above), imposing a covenant on the asset limiting whether, when, how and to whom the asset may be sold on.
9. Alternatively in appropriate circumstances, the Council may agree to a business plan that sets out that the community group will sell the asset at some point and reinvest the proceeds in a more suitable asset. The position of the Council on such a disposal would be ensuring the benefits of the CAT would be improved by the proposed sale or transfer.
10. Qualifying Organisation/Group

A key consideration will be the sustainability of the organisation and its capacity to manage and develop the asset. The organisation shall:

- Be an appropriately constituted voluntary or community sector organisation which is a legal entity, or a legally constituted through a consortia agreement; (e.g. a registered charity, community interest company or charitable incorporated organisation, a not for profit company);

- Have a stable financial position and track record with a demonstrable financial plan. (The Council will wish to review copies of audited accounts and forward projections where appropriate);
- Exist for community/social/environmental/economic benefit;
- Be non-profit distributing – i.e. it must reinvest any surpluses to further its social aims/community benefits;
- Have stated community benefit objectives;
- Demonstrate strong governance by operating through open and accountable co-operative processes, with strong monitoring evaluation, performance and financial management systems; or where this is a newly constituted organisation demonstrating a robust governance framework;
- Demonstrate it has the skills and capacity within, or available to, its managing body to effectively deliver services and manage the asset;
- Have a specific plan on health and safety issues and compliance with legislation and any statutory requirements arising from transfer of the asset;
- Have a clear purpose and understanding of the activities it wishes to deliver and demonstrate how the asset transfer will enable and support these activities.

Background to the Proposals

Walkmill Community Woodland, Moresby. (see Appendix 1)

11. The Walkmill Community Woodland is a popular recreational area created by Cumbria County Council on a 36ha former colliery site close to Moresby Parks.
12. The woodlands are not used operationally by the County Council and were identified as a surplus property asset in 2019. Moresby residents and visitors appreciate the paths and open spaces and are keen for the site to remain accessible.
13. In conjunction with the West Cumbria Rivers Trust and the Walkmill Community Woodland Activity Group, Moresby Parish Council requested a Community Asset Transfer from the County Council. The Parish Council will hold the lease on Full Repairing and Insuring terms.
14. The Parish Council working with a number of interested groups is looking to maintain and develop the natural environment and access to the woods whilst promoting community health and wellbeing. Activities such as green gyms and volunteering will support both of these objectives whilst minimising the costs of improvements to the area. Community singing, nature walks and improvements to access for people with limited mobility will diversify participation.

15. The Parish Council and interested groups will audit the existing wildlife and look for opportunities to encourage more diversity. They will also look for opportunities to develop natural flood management measures to minimise downstream flooding and offer improved wetland environments for wildlife.
16. The Parish Council and interested groups are looking for sustainability by encouraging participation and volunteering from as broad a section of the community as possible. Funding for materials for routine maintenance will come from the Parish Council. Funding for improvements and additional projects will come from grant applications.
17. Having a long leasehold of this site will enable the Parish Council to satisfy the requirements of funding partners such as the National Lottery and show that expenditure will be secure and sustainable.
18. Prior to transfer, the County Council has dedicated the site as Open Access Land under the Countryside and Rights of Way Act 2000 and undertaken some work to improve the existing path network.
19. In accordance with the Council's Disposal Policy (incorporating Community Asset Transfers) the Local Committee for Copeland confirmed their support for the proposed transfer.

Options Considered and Risks Identified

Option (a)

- Cabinet to agree the leasehold disposal as proposed for nil consideration.

Option (b)

- Cabinet does not agree the proposed CAT resulting in the following:

Walkmill Community Woodland would be retained with ongoing revenue and capital liabilities or sold as surplus property. The opportunity to provide a local partnership with the ability to run and manage their own community facility on their doorstep will be lost.

Risks –

Option (a)

No risk identified and all maintenance liabilities transferred to the acquiring organisation/group.

Option (b)

Retention of this asset will result in ongoing revenue and capital (backlog maintenance) liabilities associated with operating and maintaining the land.

Reasons for the recommendation/Key benefits

20. This proposal has demonstrated how enthusiastic local groups can work with an established lower tier of local government to support community and voluntary activities in an area. All partners have a common aim to promote further use of this well-loved local asset.
21. The transfer will ensure that the existing extensive community use of this asset will continue whilst giving opportunity to expand the range of community uses that the site can offer.
22. The continued good health and wellbeing of the local population will be a key feature of Council policies well into the future. This asset will provide a secure space for good health and wellbeing to be promoted by the partners to this asset

Financial – What Resources will be needed and how will it be funded?

23. Walkmill Community Woodlands are currently owned by the Council with a potential asset value of £0.090m. Should Cabinet agree to the proposed long-term lease (99 years) rather than disposal on the open market, then the potential capital receipt of £0.090m would be foregone by the Council.
24. Should Cabinet agree to the transfer, as a result of the Full Repairing and Insuring lease at £nil consideration, the Council would not receive any lease income but could save approximately £0.005m per annum gross in revenue running costs. From time to time, additional costs associated with owning land such as fencing and drainage improvements would also be avoided.
25. Should Cabinet agree to the recommendations contained within this report, it is anticipated that this will be undertaken using existing resources and revenue budgets.

Legal Aspects – What needs to be considered?

26. Where the Council disposes of its assets, it is under a statutory duty pursuant to section 123 Local Government Act 1972 to do so at the best consideration (i.e. price) reasonably obtainable, unless a consent to a disposal at an undervalue has been obtained from the Secretary of State.
27. The Secretary of State has issued a general consent allowing local authorities to dispose of land at an undervalue where they consider that to do so will help to secure the promotion or improvement of the economic, social or environmental wellbeing of the area, provided the difference between the value of the land interest to be disposed of and the consideration being accepted by the authority (ie the undervalue) is £2,000,000 (two million pounds) or less and that the valuation process set out in the general consent has been complied with.
28. Cabinet may, therefore, rely on this general consent in relation to the disposal of its land if it considers that the wellbeing benefits outlined in the report justify the proposed disposal of the property. The Council's Disposal Policy states that any disposal at undervalue must be approved by Cabinet.

Health and Safety Aspects – What needs to be considered?

29. The County Council has a duty under the Health and Safety at Work Act 1974 to ensure that, as far as reasonably practicable, adequate health and safety management arrangements are in place for all County Council related services or assets.
30. This report includes consideration of health and safety responsibilities relating to a proposed community asset transfer. Paragraphs 5 and 9 of the report includes reference that Moresby Parish Council will be responsible (via a long term lease arrangement) for compliance with statutory and legislative requirements, including inspections and health and safety requirements and responsibilities.

Council Plan Priority – How do the proposals contribute to the delivery of the Council’s stated objectives?

31. To be a Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources.

What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

None identified.

Appendices and Background Documents

Appendix 1 – Site Plans: Walkmill Community Woodlands.

Key Facts

Electoral Division(s): Howgate

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Y	Y	N	N	N	N	N

Approved by Cabinet Member/s on 03 December 2020

Previous relevant Council or Executive decisions

N/A

Consideration by Overview & Scrutiny

N/A

Background Papers

N/A

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