

Name of meeting: Cabinet

Date: 21 December 2022

Title of report: Community Asset Transfer of Ashworth Lodge, Moorlands Road, Dewsbury, WF13 2LD.

Purpose of report: This report requests that Cabinet considers and approves the Community Asset Transfer of Ashworth Lodge, Moorlands Road, Dewsbury, WF13 2LD to Ashworth New Lodge Community Interest Company.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	David Shepherd – 06/12/2022
Is it also signed off by the Service Director for Finance?	Eamonn Croston – 07/12/2022
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 09/12/2022
Cabinet member portfolio	Cllr Paul Davies (Corporate)

Electoral wards affected: Dewsbury West

Ward councillors consulted: Cllr Ammar Anwar, Cllr Darren O Donovan, Cllr Mussarat Purvaiz

Public or private: Public

Has GDPR been considered? Yes, GDPR has been considered. The information in this report does not identify any individuals.

1. Summary

- 1.1 Ashworth Lodge is located at Moorlands Road, Dewsbury, WF13 2LD. The freehold of the site is owned by the Council. Plan Reference 21-0194, which is attached in Appendix A, shows the boundary of the site indicated by a red line.
- 1.2 It is a small single storey building constructed on land acquired by the Council in 1937 for the purpose of an 'old folks meeting home and recreation room'. It is constructed of brick with a pitched tiled roof and UPVC windows and doors. The building is in good condition, although a programme of maintenance and modernisation works are required.
- 1.3 The property is currently vacant having previously been occupied by the Ashworth Tenants and Residents Association.
- 1.4 It is proposed that Ashworth Lodge is transferred to Ashworth New Lodge Community Interest Company (CIC) by way of a 125 year lease.
- 1.5 Ashworth New Lodge CIC are a new not for profit organisation who were first registered in 2021.
- 1.6 Core board members of the CIC have experience of the community asset transfer process and building management having successfully achieved an asset transfer of Chickenley Community Centre in April 2017. They have been wholly responsible for the management of the centre since then.

2. Information required to take a decision

Council Policy

- 2.1 The Council's Community Asset Transfer Policy was approved by Cabinet in September 2020. The Policy supports groups to transfer assets from the Council at nil consideration in order to further local social, economic and environmental objectives. A copy of the Community Asset Transfer Policy is attached in Appendix B.
- 2.2 The Policy allows for assets to be transferred either through a long-term lease or, in exceptional circumstances, a freehold transfer. Both options will normally be subject to covenants that restrict the use of the asset to community use. The Policy allows an element of commercial use if this is considered necessary for a successful business model. Commercial use of the asset will normally be restricted to a maximum of 30%.
- 2.3 In 2021 the Board Members of Chickenley Community Centre (Registered Charity 1123382) submitted an expression of interest for the transfer of Ashworth Lodge under the Community Asset Transfer Policy.
- 2.4 In line with the Policy, the Board Members were invited to develop a full application and business plan. These were in March 2022 by Ashworth New Lodge CIC, a new company set up by the Board Members to take the asset transfer forward. The business plan includes details of financial planning, the CIC's governance, policies and intended use for the asset.
- 2.5 The application and business plan have been assessed by officers, taking into consideration: the community engagement and intended use of the community centre,

governance and capacity of the applicant group, funding, and the financial viability of the project.

Applicant: Ashworth New Lodge CIC

- 2.6 Ashworth New Lodge Community Interest Company was established and registered with Companies House on 5th October 2021.
- 2.7 The CIC board members have experience of the community asset transfer process having previously taken an asset transfer of Chickenley Community Centre in 2017. The Centre acts as a vibrant community hub from which a range of services and activities are delivered.
- 2.8 The CIC's vision is for Ashworth Lodge to become a valued local asset that lies at the heart of the community. Their strategic objectives are as follows:
- To keep the building available, accessible and safe for the use of local people for decades to come;
 - Enable a range of social, welfare, educational, training, development and health activities to take place at the Centre which responds to the needs of local people and helps make Ashworth and the surrounding area a vibrant, positive place to live;
 - Provide access to advice and information for all sections of the community to support community cohesiveness;
 - Provide good quality services to users at low/no cost;
 - Consult with the local community in order to keep up to date with local issues and ensure the centre continues to provide services and activities which best meet local need;
 - Be financially sustainable and ensure the centre remains a valuable community asset for generations to come.

The Asset

- 2.9 Ashworth Lodge is located at Moorlands Road, Dewsbury, WF13 2LD. The freehold of the site is owned by the Council. Plan Reference 21-0194, which is attached in Appendix A, shows the boundary of the site indicated by a red line.
- 2.10 The property is a small single storey building constructed on land acquired by the Council in 1937 for the purpose of an 'old folks meeting home and recreation room'. It is constructed of brick with a pitched tiled roof and UPVC windows and doors. Accommodation is comprised of a main hall / room, small kitchen area and separate accessible WC. Externally, the property has grassed amenity / garden areas to all sides and an access ramp to the rear entrance. The building is in good condition, although it would benefit from a programme of maintenance and modernisation works.
- 2.11 The building is currently vacant having previously been occupied by the Ashworth Tenants and Residents Association.

Community Use Activities

2.12 The CIC have undertaken community consultation to ascertain what services local people would like to see delivered from the building. Based on this consultation, the CIC are planning to provide the following facilities and activities:

- A digital inclusion project working with older people on the Ashworth and Eightlands estate,
- Parent and toddlers' groups,
- Cohesion projects in the Ashworth, Eightlands and Northfield area,
- Older people's events such as a bingo afternoon, social afternoons and a knit and natter group,
- Mental health support projects for the socially isolated,
- Activities for young people during term time and potentially in the holiday periods,
- Free laptop/wifi provision for internet access,
- Employment support and training for the local community,
- Health related activities such as a walking group, a slimming club and healthy cook/eat sessions,
- An active Tenants and Residents Association.

2.13 The CIC board members are fully aware that the size of the facility will restrict the number and type of services that they will be able to deliver. They are already considering opportunities to extend and improve the property following completion of the Community Asset Transfer. Architect's drawings have been prepared and form part of the business plan. This will increase the internal space and provide capacity for extra activities and revenue income.

2.14 In order to finance these capital works the CIC has identified potential external funding sources including Suez, Big Lottery, Awards For All, Screwfix and Trust House Charitable Foundation.

Options

The Council have the following options:

a) Refuse the request for an asset transfer

The Community Asset Transfer Policy supports the Council's ambitions allowing local people and communities greater control over local assets and the services delivered from them.

Refusal of the Asset Transfer would see the building, and the services it would potentially deliver, lost to the local community.

For these reasons' officers are of the opinion that this is not the recommended option.

- b) Transfer the site either freehold or leasehold with restrictive covenants for community use with an exception of up to 30% commercial use in line with other Community Asset Transfers and in line with the Community Asset Transfer Policy.

The freehold of the site can be transferred; however, officers are of the opinion that this is not appropriate. Whilst transfers can contain covenants to ensure that the site is restricted to community use and remains available to the community, a freehold transfer limits the Council's ability to intervene in circumstances where the organisation failed to fulfil its obligations.

Officers are of the opinion that the grant of a long leasehold for a period of 125 years in accordance with the Community Asset Transfer Policy 2020 is appropriate. The grant of a long leasehold gives the CIC the security needed to satisfy grant funder requirements. The lease will include a covenant that restricts the use of the site to community use. The Policy allows an element of commercial use if this is considered necessary for a successful business model. Commercial use of the asset will normally be restricted to a maximum of 30%.

Officers are of the opinion that the lease should be on the basis of a peppercorn rent for the full term, with the CIC being responsible for the full repair and insuring of the site.

The lease will reserve rights for the Council to use the Lodge for the purpose of an Electoral Polling Station.

The grant of a long lease provides the Council with remedies in the event that there is a breach of the terms of the lease.

Officers recommend that the Council proceed with the grant of a 125 year lease to Ashworth New Lodge Community Interest Company.

- c) Transfer the site without restrictive covenants in place

Whilst this approach has not been previously adopted by the Council, it is recognised that, subject to Cabinet approval, the Community Asset Transfer Policy does allow the transfer of assets without restrictive covenants. There is however a risk that the site could be lost as a community facility were covenants not included in the transfer. Officers are of the opinion that this should not be the recommended option.

Valuation

2.15 Unrestricted Value

The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Valuation – Global Standards 2017 – VPS 4, except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

The unrestricted value of Ashworth Lodge is: £70,000

Restricted Value

The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

The restricted value of Ashworth Lodge is: £70,000

Voluntary Conditions

A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land. Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

The value of voluntary conditions in the proposed transaction is: £ Nil

2.16 Amount of discount given by the Council

The difference between the unrestricted value of the land to be disposed of and the consideration accepted (the restricted value plus value of any voluntary conditions).

The amount of discount in the proposed transaction is: £70,000

The Local Government Act 1972 General Disposal Consent (2003) means that specific consent of the Secretary of State is not required for the disposal of any interest in land/buildings at less than best consideration which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental wellbeing of its area.

Following assessment, Council officers are confident that the asset transfer of Ashworth Lodge to Ashworth New Lodge CIC will promote the social well-being of the Dewsbury West Ward.

3 Implications for the Council

• Working with People

The proposals for the asset transfer of Ashworth Lodge have been developed in conjunction with the trustees of Ashworth New Lodge CIC and the community. Community Asset Transfers involve supporting community initiative and helping communities to solve their own problems. Community consultation is a key part of the asset transfer process, ensuring that the asset meets the needs. Ward Members are consulted as part of the Cabinet reporting process and are given opportunity to make representations on behalf of the community.

• Working with Partners

Partnership working is crucial to the success and sustainability of community asset transfers within Kirklees. Officers work collaboratively with the applicant group, council services and Locality, a national charity, in the development of asset transfer proposals. Locality is a national charity working with community foundations at a local level to ensure that they are strong and successful.

Groups are actively encouraged and provided with necessary support to ensure that partnership opportunities are fully explored.

- **Place Based Working**

Community Asset Transfer supports Place Based Working, providing an opportunity for a more efficient and effective use of buildings and land currently owned by the council. It gives local people and communities greater control over local assets and the services delivered from them and provides new opportunities to develop and improve land and buildings for local social, economic and environmental benefit. The Community Asset Transfer Policy has been updated to ensure it is consistent with the Council's Vision of giving local people and communities' greater control over local assets and the services delivered from them.

The asset transfer process, as set out in the updated policy, requires that full community consultation and engagement is carried out as part of an asset transfer application. This ensures that local residents, stakeholders and businesses have a say and inform how community assets can help shape their places.

- **Climate Change and Air Quality**

There will be no impact on Climate Change and Air Quality.

- **Improving outcomes for children**

Community assets play a crucial role in the delivery of services to all members of the community, including young people.

The transfer of community assets can maximise their use and provide a place for children, their families, communities and services to work together to provide positive childhood experiences.

- **Financial Implications for the people living or working in Kirklees**

Under the terms of the transfer responsibility for the asset will transfer to Ashworth New Lodge CIC, this will deliver revenue and potential capital savings for the Council. These monies can then be made available for other Council priorities and services to residents of Kirklees.

- **Other (eg Legal/Financial or Human Resources)**

Under the proposals the Council will be forgoing a potential capital receipt of £70,000.

By granting a 125 year lease at a peppercorn rent the Council is foregoing the market rent that would be payable for the property, however this is somewhat mitigated by (i) the effective transfer of responsibility for the repair, maintenance and insuring of the property to the CIC; and (ii) the broader community benefits to that area of Dewsbury.

Housing Revenue Account ("HRA") Properties

Ashworth Lodge currently sits within the Housing Revenue Account (HRA). The Housing Act 1985 requires Secretary of State approval be obtained prior to the disposal of any housing land in the HRA. The General Housing Consent 2013 provides that non-dwellings can be disposed of without seeking a specific consent of the Secretary of State, but only where being disposed of at market value. The proposed grant of a lease constitutes a "disposal" for the purposes of the legislation and the terms are for disposal at less than market value, meaning the General Housing Consent cannot be relied upon.

Kirklees Homes and Neighbourhoods has considered the purpose for which the property is held. Originally acquired in 1937 for the provision of an old folks meeting home/recreation room, the building is not currently, nor has it previously been used as a dwelling. Officers are satisfied that the property is no longer used nor required for its original purpose and can be

made available for Community Asset Transfer. It is proposed that the property be appropriated from the HRA to the General Fund account (under delegated powers) using powers under section 122 of the Local Government Act 1972, enabling disposal of the property at less than market value in accordance with the General Disposal Consent 2003 (as further explained in paragraph 2.16 of this Cabinet Report). If the property is appropriated the Council would also ensure it did not have to make an application seeking the consent of the Secretary of State for the disposal at less than market value.

In appropriating the property from the HRA and into the General Fund, accounting adjustments will be made and will reflect the market value of the property. The Council's Land Terrier will also be updated to reflect the appropriation.

Compliance with Subsidy Control Act 2022

The granting of a lease at an undervalue to the proposed tenant with some commercial use permitted would constitute a subsidy under the Subsidy Control Act 2022. In order to comply with the Act the Council will either apply the 7 subsidy control principles to justify the giving of the subsidy or will grant the subsidy under the Minimum Financial Assistance exemption. The former will require details of the subsidy to be uploaded to the BEIS transparency database. The latter will require an MFA declaration to be completed by the tenant at the time of the grant of the lease.

- **Do you need an Integrated Impact Assessment (IIA)?**

Yes. IIA attached at Appendix C

4 Consultees and their opinions

Ward Member Comments

Cllr Darren O Donovan

I fully support this community asset transfer.

Third Sector Team Comments

The Third Sector Team have registered the organisation for the Grant Access Point (GAP) which includes a due diligence check on the governance, finance and policy areas of the organisation, and there were no concerns which would lead the team to believe the group would be unsuitable for asset transfer.

Kirklees Homes and Neighbourhoods

Homes and Neighbourhoods fully supports the application. This is in recognition of the experience and the valuable work the Core Members of the CIC have undertaken in the Chickenley community on behalf of local tenants and residents. We look forward to working closely with the CIC following the transfer to benefit the tenants and residents of Ashworth and Eightlands.

5 Next steps and timelines

- 5.1 Subject to Cabinet approval, Officers will complete negotiations and agree terms of the transfer and instruct the Service Director - Legal, Governance and Commissioning to enter into and execute the transfer.

6 Officer recommendations and reasons

It is recommended that:

- 6.1 Authority be delegated to the Service Director Development to negotiate and agree terms for the grant of a 125 year lease of Ashworth Lodge, Moorlands Road, Dewsbury, WF13 2LD for the reasons set out in the body of the report.
- 6.2 Authority be delegated to the Service Director - Legal, Governance and Commissioning to execute and enter into all necessary documentation in connection with the grant of a 125 year lease of Ashworth Lodge, Moorlands Road, Dewsbury to Ashworth New Lodge CIC and enter into a Polling Station Agreement.

7 Cabinet Portfolio Holder's recommendations

I welcome this asset transfer to Ashworth New Lodge CIC.

I am sure this community asset transfer will be a great success and will join the list of the many transfers we have completed over the last few years. Asset transfers give communities the chance to develop community capacity and ensure that the needs of the community are at the heart of the buildings we transfer.

I fully endorse this transfer and wish the CIC all the best for the future and therefore recommend that Cabinet support the officer recommendations set out above and that:

- Authority be delegated to the Service Director Development to negotiate and agree terms for the grant of a 125 year lease of Ashworth Lodge, being the land and buildings shown edged red on Plan reference 21-0194.
- Authority be delegated to the Service Director - Legal, Governance and Commissioning to enter into and execute all necessary documentation in connection with the grant of a 125 year lease of Ashworth Lodge to Ashworth New Lodge CIC and enter into a Polling Station Agreement.

8 Contact officer

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9 Background Papers and History of Decisions

Appendix A - Red Line Boundary plan (Ref.21-0194)
Appendix B - Community Asset Transfer Policy 2020
Appendix C - Integrated Impact Assessment

10 Service Director responsible

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