

TOURISM, COMMUNITIES, CULTURE & LEISURE COMMITTEE**Tuesday, 25 October 2022**

REPORT TITLE:	COMMUNITY ASSET TRANSFER – OUTCOME OF BUSINESS PLANNING STAGE
REPORT OF:	DIRECTOR OF RESOURCES (S151 OFFICER)

REPORT SUMMARY

This report provides the outcome of the Community Asset Transfer (CAT) business planning stage for the libraries and makes recommendations for each asset.

A report on the transfer of Brackenwood Golf Course and Woodchurch Leisure Centre will be presented to the next meeting of this Committee on 1 December 2022 as further clarifications are awaited and will then require assessment.

A report on the transfer of Hoylake Municipal Golf Course will come to a future meeting of this Committee once the proposal has been considered alongside the future arrangements for the Open Championship at Royal Liverpool Golf Club in Hoylake.

This report meets the following priorities in the Wirral Plan 2021-26

- Safe, vibrant communities where people want to live and raise their families
- A prosperous inclusive economy where local people can get good jobs and achieve their aspirations.

This matter has the potential to affect all wards.

This is a Key Decision

Appendices 1, 2 and 3 of this report are exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

RECOMMENDATION/S

The Tourism, Communities, Culture and Leisure Committee is recommended, to authorise the Director of Resources to:

- (1) Enter into negotiations to transfer the assets of
 - (a) Pensby library to Pioneer People; and
 - (b) Prenton Library to St. Stephens Church.

- (2) Enter into further discussions, for a period of time ending on 9 December 2022, with the groups who have submitted business plans for the libraries at Wallasey Village, Irby, Woodchurch and Hoylake with a view to achieving a viable business plan for a Community Asset Transfer;
- (3) Pursue alternative options including sale or commercial leasing for those libraries at Wallasey Village, Irby, Woodchurch and/or Hoylake for which viable business plans are not achieved within this timescale;
- (4) Enter into further discussions for a period of time ending on 9 December with Co-Op Academy regarding the option of the an asset transfer to the Co-Op Academy of Higher Bebington library with a focus on education opportunities and;
- (5) Recommend to Policy and Resources Committee that the site of the Higher Bebington Library be appropriated by the Council for educational purposes in the event that
 - (a) a viable business case for its use for educational purposes is established; and
 - (b) matters relating to the covenant on the land imposed by Leverhulme Estates is resolved.
- (6) Pursue the demolition of Higher Bebington Library and utilisation and appropriation as public open space if a viable business plan for educational use has not been submitted within the relevant timescales;
- (7) Present an update report(s) on the progress of all the Community Asset Transfer and/or asset transfers to a future meeting of this Committee including;
 - (a) the proposed heads of terms for the transfer of the libraries at Pensby and Prenton;
 - (b) any viable business plans for the Community Asset Transfer of the libraries at Wallasey Village, Irby, Woodchurch and Hoylake.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The recommendations within this report enable Committee to make decisions on the library assets that are in scope for Community Asset Transfer (CAT) as a result of the decisions taken by Council when setting the 2022/23 Budget.
- 1.2 The report makes recommendations for transfer where the information supports that approach.
- 1.3 Where business plans are unviable, officers have re-engaged, with all those groups to explore if there are further steps that can be taken to create viable business plans based on the principle of exploring all options to secure CAT for the library assets and community benefit before looking at alternative options. The detail of this is set out in the report.
- 1.4 The recommendations contain suggested actions to be taken if viable business plans cannot be achieved so that members have all the information and options to make informed decisions on these assets.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Apart from the CAT process no other options were considered as this report follows on from resolutions agreed by this Committee at its meeting of 16 June 2022.
- 2.2 The report does however, set out options against each asset where a viable business plan is not achieved.

3.0 BACKGROUND INFORMATION

- 3.1 As part of the 2022/23 budget, the Council resolved that several assets be considered for CAT. These were nine libraries, two municipal golf courses and one leisure centre. Expressions of interest were received for seven of the nine libraries. On 16 June 2022 this Committee agreed to progress several expressions of interest in a CAT transfer to the business planning stage.
- 3.2 Following this decision, a timescale was set for the production of the business plans. An inception meeting took place with each of the organisations which submitted Expressions of Interest (EOI) progressing to the business planning stage. Information to support business planning was provided and regular check-ins with each organisation were undertaken as the business plans were being prepared. Support in the preparation of business plans was made available by the Chamber of Commerce and the Council signposted to other appropriate organisations who give advice and support with asset transfer.
- 3.3 The business plans were submitted to the Council on 25 August 2022. These are attached as exempt appendix 1 to this report. Appendix 1 to this report is exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

- 3.4 The Council is required, to meet its legal duties and fiduciary responsibilities, to consider several matters in making decisions in relation to CAT. In summary these include fit with the CAT policy, assessments of the business plans, strategic fit, alignment with Council priorities, due diligence on the organisations seeking a transfer, any property related matters, any legal requirements, financial implications and community benefit.
- 3.5 The Council employed C.co (a company associated with CIPFA) to undertake an independent assessment of the business plans based on the information submitted. This document is attached as Appendix 2 to this report. Appendix 2 is exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. A template summarising other information considered for each library asset is contained as an exempt appendix 3 to this report. Appendix 3 is exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
- 3.6 An information workshop was held with Members of this Committee and Group Leaders on Monday 26 September 2022. Following this workshop, officers spoke to all the groups that had submitted business plans to discuss the issues raised by the assessment process, and from these discussions several further before decisions are taken on any future actions. All the groups who submitted business plans, have been advised of the recommendations of this report prior to publication and officers will continue dialogue with them once the Committee's decision is known.
- 3.7 The paragraphs below, summarise the recommendation for each asset, based on the information contained in this report. The table at paragraph 4.2 of this report sets out the indicative capital and revenue requests received from each organization to support the transfer of the asset. These sums will be reviewed as these matters progress.
- 3.8 **Pensby Library**
Pioneer People submitted a business plan for this asset to provide a range of community facilities including a café. The outcome of the assessment was that this asset should progress to a transfer because of the community benefits it can deliver and assessment of the business plan. Pioneer People have undertaken a previous successful transfer of another Council asset in Pensby.
- 3.9 **Prenton Library**
St. Stephen's Church submitted a business plan to provide a range of community facilities in the library building. . The outcome of the assessment is that this asset should proceed to transfer based on the business plan and the community benefits. In doing so, Committee are reminded that this asset is not owned by the Council but leased from Magenta Living and further discussions around these matters will be needed as part of the transfer negotiations.
- 3.10 **Woodchurch Library**
Positivitree submitted a business plan to provide a range of community facilities in this building. The community benefits are strong, but the current business plan is not viable in relation to a community asset transfer.

- 3.11 Officers have discussed this with the organisation and with the school as the building is an integral part of the school. There is an opportunity for the Council, through the school, to negotiate an arrangement with Positivitree which will enable them to use the space for their, and other community uses. This is not technically a transfer as the school will maintain control of the asset (the library building) but it does open up the way for other management arrangements with the possibility of attracting additional external income. As the building is likely to remain unused by the community when the library closes, it is considered worth exploring this option further. If this is possible, it would enable community uses in this space thereby using an important local resource to support the community and school.
- 3.12 As the building is part of the school, capital works costing £20,000 would be needed to isolate the toilets from the school and provide a new fire door. These works will then enable the building to be used by this project and other community users with no safeguarding or other impacts on the operation of the school. It is considered that a further period of time ending on 9 December 2022 is given for these matters to be explored further. If this cannot be achieved then the site should be appropriated back into the school for educational use. Such appropriation would require the approval of Policy and Resources Committee.
- 3.13 **Irby Library**
The Friends of Irby Library (FOIL) submitted a business plan for a range of community uses and a cafe in this building. While there are positive community benefits, the business plan is not viable. Officers have discussed this with FOIL and explored several options set out below.
- 3.14 As context to the options the asset comprises of the library building, an adjacent closed toilet block and a grassed area with footpaths at the front of the library which provides important open space in the context of Irby Village. The business plan to date has focused on taking the whole asset but this has introduced costs which impact negatively on the viability of the business plan.
- 3.15 Option 1 – This would just transfer the library building. The open space would remain in Council ownership and be maintained by Parks with a minimal cost. The vacant toilet block (which has no commercial value) would be demolished using some of the capital funding available for CAT and the site would then be included into the open space. This would then allow the business plan to be reviewed with the prospect of making it viable. FOIL is also willing to work with other groups to strengthen the business plan. It is recommended that a six-week period is given to explore this option and then if a viable business plan with the FOIL is not possible the site could be marketed for commercial uses in keeping with the retail area in Irby Village
- 3.16 Option 2 – As the FOIL business plan is not viable, Members could decide not to progress any further with them and seek to advertise this asset for other expressions of interest. Members may recall that another local group expressed interest in this asset at stage 1 of the process and their interest in this asset remains
- 3.17 Option 3 – Members could decide to market the site (library and toilet block while retaining the open space for environmental reasons) for commercial or residential purposes. This site is part of Irby Village retail area.

- 3.18 It is recommended that a sequential approach to these options is taken with six weeks being allowed for option 1, then, if required, four weeks for option 2, and then if required, the site is marketed.
- 3.19 **Higher Bebington Library**
The Co-op Academy submitted a business plan for this asset proposing its use for educational purposes and community benefit. The business plan is not viable, and the proposal is primarily education focused. Although there is community benefit, this proposal does not fully fit with the Council's Community Asset Transfer Policy. Therefore it is recommended that this does not progress through CAT.
- 3.20 In further discussion with the Co-op Academy, there remains interest in using the building primarily for educational purposes and therefore suggested that a period of time until 9 December 2022 is given to allow officers to explore an asset transfer. On this basis, other funding sources may be available from the school and its partners.
- 3.21 If after this period a viable business plan cannot be achieved, and as there is no known interest from the local community in a viable use (given that no community expressions of interest were received through the CAT process) and given the other community facilities already existing in this area, then it is recommended that the building is demolished (to remove the Council's maintenance cost, and rates) and the land returned to the park as public open space use.
- 3.22 **Hoylake Library**
The Life Tree has submitted a business plan for this asset proposing a number of community uses. The business plan is not viable.
- 3.23 In further discussions with the group, they have indicated their willingness to work with other Community Interest Companies and local groups to explore ways of bringing additional income into the business plan and off-setting some of the costs by collaboratively working with other groups. There is the prospect that such an approach may result in a viable business plan, and it is recommended that a further period of time until 9 December 2022 is given to explore this possibility.
- 3.24 If after that time period no viable business plan emerges, then it is recommended that the property should be marketed for commercial purposes given its location in the retail area of Market Street in Hoylake.
- 3.25 **Wallasey Village Library**
The Friends of Wallasey Village Library, supported by St. George's school, submitted a business plan for a range of community uses. The business plan is not viable.
- 3.26 In further discussion with the group there are some further options which have been suggested which will lead to a review of the business plan and there is a prospect of a viable business plan being presented. It is therefore recommended that a further period of time until 9 December 2022 is given to explore these options.
- 3.27 If after this time period, a viable business plan cannot be produced, it is recommended that this building is marketed for alternative uses.

4.0 FINANCIAL IMPLICATIONS

4.1 The following table sets out the capital value of each asset

ASSET	Estimated Asset Value	Estimated Capital Investment Costs
Hoylake Library	£250,000	£224,000
Irby	£400,000	£95,475
Pensby	£175,000	£141,000
Prenton	Not applicable - the Council do not own this asset	Not applicable - the Council do not own this asset
Wallasey Village Library	£400,000	£160,250
Woodchurch Library	Not applicable - school site	Not applicable - school site

4.2 This table provides a summary of the capital and revenue requests made by organisations in their CAT business plans as submitted in Stage 2 of the CAT process.

This financial information is not definitive and final at this stage of the process. Figures are subject to change based on decisions of committee taken on CAT report recommendations and subsequent negotiations to finalise asset transfer.

Asset	Capital - Conditions	Capital - Change of Use	Total Capital	Revenue
Bebington	37,000	42,169	79,169	46,831
Hoylake	10,000	25,000	35,000	66,000
Irby	0	0	0	4,874
Pensby	67,000	0	67,000	44,583
Prenton	28,000	24,000	52,000	21,000
Wallasey Village	53,500	24,000	77,500	0
Woodchurch	79,000	21,000	100,000	111,000

Total **410,669** **294,288**

Available Budget **500,000** **282,000**

Balance **89,331** **-12,288**

4.3 Post any decision of this Committee, to transfer an asset, there will be a period of negotiation around the Transfer Agreement along with a period required for any capital works to be undertaken. During this period, for the libraries, there will be continued basic

security and insurance costs as the libraries referred to in this report are scheduled to close on 31 October 2022.

4.4 Costs will continue to be incurred by Asset Management from 1st November 2022 in relation to the Libraries whilst the CAT process is finalised. At present there is uncertainty around how long this will be and costs have been estimated at £0.062m up to the end of March 2023. However, there are risks associated with this figure and costs could continue into next financial year for some sites. Costs could also increase depending on utility bills and additional security requirements. Reserves will be reviewed to determine a funding source.

5.0 LEGAL IMPLICATIONS

- 5.1 The terms of reference for the Tourism, Communities, Culture and Leisure Committee are to consider applications for transfers of assets to organisations that will provide community benefits e.g. main uses which would further the social well-being and interests of the local community. Examples would include cultural, recreational and sporting uses. Outside the definition would be use that was predominantly educational. Any appropriation of land from use as a library to educational use would require the approval of Policy and Resources Committee. The Tourism, Communities, Culture and Leisure Committee should refer to Policy and Resources Committee surplus assets for which the Committee saw no alternative community use.
- 5.2 In general the Committee in reaching a decision must consider all relevant considerations and disregard irrelevant considerations and come to a reasonable conclusion. That would include considering any potential uses for the assets which are alternative to those being proposed by the applicants for CAT transfers. Not to consider alternative uses would expose any decision to legal challenge.
- 5.3 A relevant consideration is the Council's fiduciary duty to the Council Taxpayer to take account of their interests in maximising income or savings and obtaining the best price reasonably obtainable for the disposal of any asset. The Committee should therefore take into account any income or capital receipt forgone as a result of donating an asset for community use. Any financial loss would have to be clearly outweighed by the strength of the community benefits. The Council's current financial position is a relevant factor.
- 5.4 If the community benefits are unlikely to be realised by a CAT transfer because, for example, of a lack of financial viability or necessary expertise, then they should be given little or no weight in the decision-making process, particularly if the CAT transfer would commit the Council to capital or revenue support which would be wasted if the community benefits were not realised.
- 5.5 The Council is under an additional duty to obtain the best price reasonably obtainable for the disposal of any interest in its land unless the disposal is for a lease for less than seven years. If the proposed lease is for a longer term, then a less than market rent would be lawful if the value of the community benefits outweighed any loss of income. If, however, the value of the land free of any restrictions imposed by

the Council would be £2million or more, then the Secretary of State's consent would be required.

- 5.6 A further consideration is the Subsidy Control Act 2022 which prohibits subsidies by public bodies to an enterprise (even if not for profit) that offers goods or services on a market. If the financial assistance (e.g. charging a below market rent in a lease) conferred an economic advantage on the selected enterprise that might distort competition with other providers, it would be unlawful unless the advantage were below the "de minimis " level of £315,000 (measured over the length of the proposed lease) or the rigorous requirements for a lawful subsidy under the Act were satisfied.
- 5.7 Any proposed disposal by the Council of an interest in land that is public open space (i.e. land held for the purpose of public recreation such as public parks or golf courses that are open to the public and not restricted to a private membership) must be advertised in local newspapers for two successive weeks .Any objections received would have to be considered by the Committee before any decision were made on the disposal.
- 5.8 The grant of a lease to a CAT transferee would confer exclusive possession of the land to the organisation. The Council could impose covenants on the lessee e.g.to keep the property in good repair or not to use it for any purposes other than those specified. Those covenants would be enforceable but any decision by the Council to forfeit the lease for non-compliance could be overturned by the Court in its discretion if the lessee sought relief from forfeiture. The Council would in effect lose control of the land for the duration of the lease (and the lessee would have the right to a renewal of the lease on its expiry unless its right were excluded pursuant to the Landlord and Tenant Act 1954).
- 5.9 Any disposal of the land for a different use than the one formerly established by the Council would have to be compliant with any legally enforceable covenants imposed by previous owners or current landlords and with any requirements for planning permission.
- 5.10 If the Committee were to agree in principle to a CAT transfer, Asset Management would negotiate heads of terms with the transferee. Those terms would then be referred to the Tourism Committee for approval and to Policy and Resources Committee if the value of the land exceeded £500,000) whereupon the legal documentation and processes would be undertaken. Any capital works by the Council would have to be completed prior to the grant of the lease. Pending completion of the CAT transfer, any costs incurred in maintaining the asset would have to be met by the Council.
- 5.11 If the Committee decided not to proceed with a CAT transfer, the property would either be considered for an alternative use by the Council or put on the market for sale or rent in accordance with the Council's Asset Disposal Strategy.
- 5.12 If the Director of Resources considers that a viable business plan for educational use of the Higher Bebbington library is submitted, then the report proposed that the matter would be referred to the Policy and Resources Committee with a recommendation that the site be appropriated by the Council for educational

purposes but subject to the prior consent of the Leverhulme Estate in accordance with the covenant imposed on the land when it was purchased.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The Council has existing resources in place to progress the recommendations set out in this report.

7.0 RELEVANT RISKS

- 7.1 Transferring any asset carries a risk that it may not be successful. To reduce this risk, the Council has undertaken a very thorough process in terms of assessing each business plan, the funding required and considering all other relevant factors as detailed in this report.
- 7.2 In addition, under the CAT proposals the Council would be leasing the assets to the relevant organisation and if any transfer fails the asset would return to the Council. Consideration could then be given to the options. Most of the assets have a prospect of an alternative use, so the Council could market the sites to realise a rent or capital receipt.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Engagement has taken place with each of the organisations as they prepared their business plans. Following the assessment process, further engagement took place with each group to provide feedback and to discuss the issues and options as set out in this report.
- 8.2 Following the decision of this Committee, the outcome will be discussed further with each organisation as appropriate.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 As part of the due diligence the Council has checked that each of the organizations recommended to receive a transfer of the asset has all the relevant policies in place or will have them in place prior to any Transfer Agreement being signed.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The assets referred to in this report are existing and vary in age and construction. In considering the range of factors, consideration was given to reducing carbon emissions and securing environmental improvements where this was possible.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 Transferring the library assets has a number of community benefits. A number of new organisations will be formed to run the assets and this will provide new opportunities within those communities for community wealth building.

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APPENDICES

Appendix 1 Links to Business Plans submitted (Exempt)
Appendix 2 C.Co report assessing Business Plans (Exempt)
Appendix 3 Information template for each asset (Exempt)

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BACKGROUND PAPERS

1. Community Asset Transfer Policy 2022

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Tourism Communities Culture and Tourism Committee Report on CAT (stage 1)	16 June 2022