



Joint Report of the Cabinet Member for Investment, Regeneration & Tourism and the Cabinet Member for Corporate Service & Performance

Cabinet - 17 November 2022

Disposal of Sports and Leisure Facilities under the Community Asset Transfer Policy

Purpose:	To approve in principle the transfer of assets of Sporting and Leisure facilities, including more broadly any recreational land and associated buildings to community organisations, clubs and associations in accordance with the Councils Community Asset Transfer Policy, at less than best value in order to enable investment, improvement and long-term sustainability.
Policy Framework:	Community Asset Transfer Policy 2021 Creating an Active and Healthy Swansea Land Transaction Procedure Rules Wellbeing of Future Generations Act
Consultation:	Legal, Finance, Property and Access to Services
Recommendation(s):	It is recommended that Cabinet: 1) Approves in principle the proposed transfers of the plots listed in 2.4 - Table 1 under the Council's Community Asset Transfer Policy 2021. 2) Delegates authority to the Director of Place to grant leases of up to a maximum of 125 years in relation to the plots listed in 2.4 -Table 1 to the proposed leaseholders for the intended reasons as indicated in the table, providing that the Head of Property Services has considered each of the proposed transfers under the Council's Land Transaction Procedure Rules and recommends approval of each transfer. The leases to be granted at less than best consideration in accordance with the Councils Community Asset Transfer Policy. 3) Delegates authority to the Head of Property Services to negotiate and settle the terms of the proposed leases (and thereafter any required Deeds of Variation) and authority is delegated to the Chief Legal Officer to finalise and enter into the legal documentation on behalf of the Council.

Report Authors:	Jamie Rewbridge/Lewis Hinds
Finance Officer:	Paul Roach
Legal Officers:	Sally Ann Evans/Debbie Smith
Access to Services Officer:	Rhian Millar

1. Introduction

- 1.1 The Council receives requests to lease sport and leisure facilities, including a non-exhaustive list of sports pitches, associated buildings for changing room space and wider community use. Such requests are typically from local clubs, associations, local democratic bodies and requested at peppercorn rent to enable investment under the Councils Community Asset Transfer Policy.
- 1.2 All transfers will create a mutual benefit to both the Council and the community by promoting social, economic or environmental wellbeing and supporting the aims and priorities of the Council. Under the proposals groups, clubs and associations (the “requester”) seek to undertake the management of the land and associated buildings to unlock and enable investment and local control and use by the primary user group(s). In a typical scenario, the requester is operated by constituted volunteer group, or more formally by trustees, or directors under differing governance models.
- 1.3 This report aims to identify and define approved asset transfer principles for disposal, and provide a list of sites and the proposed leaseholders to transfer to under the principles of the Councils Community Asset Transfer Policy. Each application will require approval from the relevant Head of Service, the Head of Property Services in consultation with the relevant Cabinet Member(s). If Cabinet grants approval in principle to the transfers set out in Table 1 below then the Head of Property Services will consider each individual transfer in accordance with the Council’s Land Transaction Procedure Rules.

2. Background

- 2.1 The Councils Community Asset Transfer Policy Scheme of Delegation as set out in Part 4.7 of the Constitution provides a framework and procedure for the letting of Council owned facilities to community or 3rd sector, not for profit groups to enable the improvement of and investment in Council services and facilities.
- 2.2 This policy has successfully facilitated a number of projects in recent years including but not limited to the leasing of Underhill Park enabling a multimillion-pound investment scheme; the leasing of 16 allotment sites enabling significant combined investment; lease of Waunarlwydd Park enabling investment in football facilities and site ground conditions.

Furthermore, leases to Mumbles Community Council to facilitate a new circa £500K project for a skatepark in Mumbles, and investment into three of Langland Tennis Courts and a lease at Coed Gwilym Park allowing the construction of a new community building.

- 2.3 The Council would like to continue the grant of such leases for future projects and to make the process more efficient and seeks Cabinet approval to apply the process to buildings and land identified in 2.4 -Table 1 that meet the relevant criteria underpinned by the Councils Community Asset Transfer Policy set out in Part 4.7 of the Constitution allows leases to be granted for up to a maximum of 125 years where appropriate, at less than best consideration. The term and rental (usually peppercorn) will be fully considered by the Head of Property Services after assessment in line with the agreed procedure.
- 2.4 A part of this report, it is proposed that the following sites listed in Table 1 are leased to the proposed leaseholder in accordance with the Councils Community Asset Transfer Policy;

Table 1

<u>Plot No.</u>	<u>Description of Land</u>	<u>Leaseholder and reason for proposed disposal</u>
<u>1</u>	Cricket pitches at Tir Canol, Morriston	Long leasehold disposal to Morriston Cricket Club to continue to improve and maintain facilities as use for cricket
<u>2</u>	Rugby Pitches at Tir Canol, Morriston	Long leasehold disposal to Morriston Rugby Club to continue to improve and maintain facilities as use for rugby
<u>3</u>	Coed Gwilym Park Boathouse / Heritage Centre at Coed Gwilym Park, Clydach	Long leasehold disposal to the Friends of Clydach Heritage Centre who have occupied the property via licence since 2011. This will allow them to invest in and improve the property.
<u>4</u>	Football Pitches Coed Gwilym Park, Clydach	Long leasehold disposal to Friends of Coed Gwilym to continue to improve facilities and take on long term maintenance for use for football in partnership with local football club(s)
<u>5</u>	Pentyla Playing Fields -The Ganges	Shorter term leasehold disposal to Rosehill Community Football Club to allow them to invest in and improve the area for the playing of Football and as a public green space. The FC currently self-manage the football pitches.

<u>6</u>	Ynystawe Park – Cricket and Football pitches and associated changing rooms	Long leasehold disposal to Ynystawe Cricket and Football Club to enable investment in and improvement of the pitch and changing facilities at Ynystawe Park. The club have been occupying and successfully managing the pitches under licence for 2 years.
<u>7</u>	Mumbles Bowls Green and Pavilion	Long leasehold to Mumbles Community Council to continue to improve facilities and formalise long term maintenance obligations in place with local the bowls club.
<u>8</u>	Ashlands/Banfields Playing Fields	Long leasehold disposal to Port Tenant Colts Football Club to enable investment into the facility. They have been successfully managing the facility since 2016.
<u>9</u>	Part of Oystermouth Woodland, Mumbles	Shorter Leasehold disposal to Mumbles Community Council to enable the improvement to the area's infrastructure. The area in question was previously improved by the Mumbles Development Trust but they are no longer able to maintain the area and have terminated their lease agreement. Mumbles Community Council have been occupying via licence for 2 years and are investing in the environmental infrastructure.
<u>10.</u>	Part of Clyne Gardens	Short Leasehold disposal to Coedenfach Community Tree Nursery for the growing of native species of trees from locally collected seeds using organic, peat free methods. This helps towards reaching the Councils Biodiversity goals.
<u>11.</u>	Halfway Park Football Pitch and Changing Rooms	Long leasehold disposal to Brynawel AFC to enable investment in and improvement of the pitch and changing facilities at Halfway Park. The club have been occupying and successfully managing the changing rooms under licence for 3 years. They have already made some

		improvements to the changing rooms and a longer lease will allow them to invest further.
--	--	--

3. Business Case and Due Diligence

- 3.1 As part of the requirement for any Community Asset Transfer, requestors will be required to accept a lease that assumes a full repairing and maintaining basis of the land/property, and ensuring a continuation of the service provision of the land and associated building(s), and this may also consider the construction of new or changes to the existing buildings, subject to planning approval and the relevant approval of a deed of variation to leases granted.
- 3.2 The successful implementation of any proposal and granting of long-term lease as detailed within a business plan from the requestor, will be approved by the relevant Head of Service and will seek to achieve the following benefits as a set of key principles;
- Community cohesion through the ownership, involvement and interest in local facilities.
 - Partnership working with the community in managing and safeguarding valuable community assets.
 - Investment in modern, fit for purpose facilities which the Council is not in a position to provide.
 - Increased access to local formal and informal sporting, cultural and recreational opportunities.
 - Access to funding opportunities not available to the Council
- 3.3 In the event that the Head of Service and relevant Cabinet Member cannot support the request principles, or the business plan provided by the requester is not acceptable or robust, the Council is not obliged to undertake Community Asset Transfers and the requester will be notified accordingly of the decision
- 3.4 If the request can be supported under the Council's Land Transaction Procedure Rules (LTPR), the Head of Property Services must be consulted. The latter will assess the status of the property, its tenure, open market value and potential for realisation of a capital receipt and liaise with the supporting department.
- 3.5 Property Services and Finance must be consulted prior to any decision to fully consider the financial implications of the Community Asset Transfer and to ensure it does not breach subsidy controls.
- 3.6 Legal, Financial and any possible Equality and Engagement Implications will also need to be considered and discussed at this stage.

- 3.7 In the event that any request is potentially contentious or requires detailed consultation due to a specific significance or any risks associated with the requester or to the Council, the relevant Head of Service will present another report to Cabinet detailing the specific considerations of the individual disposal.

4. Integrated Assessment Implications

- 4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
 - Deliver better outcomes for those people who experience socio-economic disadvantage
 - Consider opportunities for people to use the Welsh language
 - Treat the Welsh language no less favourably than English.
 - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 4.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 4.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 4.4 The IIA process takes into account the United Nation Convention on the Rights of the Child (UNCRC), which the Council has embedded into the Authority's Policy Framework. If the UNCRC is relevant to the report, it should be referred to in this section.
- 4.5 The IIA process must also provide evidence that the initiative complies with Welsh Language Standards: specifically, that we have considered how to maximise any benefits and minimise any adverse effects on:
- opportunities for people to use the Welsh language
 - treating the Welsh language no less favourably than English.

- 4.6 In line with the Community Asset Transfer Policy and procedure, and as an outcome of any discussions with the Access to Services team, in respect of the individual site Community Asset Transfer disposal, as suggest in 3.6. it is recommended for each individual proposal that the IIA process is followed, as part of the Community Asset Transfer process and procedure. It will be a requirement of the procedure for the IIA process to be signed off by the Access To Services team prior to agreeing any terms with the requesting organisation.
- 4.7 An IIA Screening Form (Appendix A) has been completed with the agreed outcome that a full IIA report was not required for the principle of this Community Asset Transfer process to be applied as per the policy, subject to the IIA process being undertaken for each individual site contained in this report to ensure the following principles are adhered to;
- The transfer will enhance the facility provision to enable them to further develop opportunities for the local community.
 - Any change in provision or opportunities to use or access the site are fully considered within the business proposal and captured within the IIA process for the site.
 - Relevant local consultation has been undertaken by the requesting organisation on their proposal, with support from the local ward member. This may also include consultation undertaken to seek investment and funding opportunities and publication of their intentions through a number of formal and informal means.
- 4.8 The IIA process also provides evidence that the initiative complies with Welsh Language Standards: specifically, that we have considered how to maximise any benefits and minimise any adverse effects on:
- opportunities for people to use the Welsh language
 - treating the Welsh language, no less favourably than English.

5. Financial Implications / Property Implications

- 5.1 The proposed lettings will generally be at a peppercorn rent, which will generally be at less than best consideration. However, given the nature of the proposed disposals listed within 2.4, the amount of undervalue is relatively low ranging from a few hundred to a few thousand pounds with the combined Market Value of all of the sites listed within Table 1- 2.4 is estimated to be in the region of £50,000 .
- 5.2 Agreement of a long-term lease to any requester would preclude the Council from the possibility of the future sale and capital receipts from this site and should be considered fully in line with the Community Asset Transfer policy and procedure and as per 3.5 of this report.
- 5.3 The Council is required to dispose of land for the best consideration reasonably obtainable in accordance with Section 123 of the Local Government Act 1972 and the Council's Land Transaction Procedure Rules.

- 5.4 The General Disposal Consent (Wales) Order 2003 allows a range of public bodies to transfer the ownership and management of land and buildings to local communities at 'less than best consideration' where it is the intention to promote social, economic or environmental well-being.
- 5.5 The Head of Property Services is satisfied in principle that the sites in 2.4 -Table 1 fall within the scope of the Council's Community Asset Policy and within the scope of the General Disposal Consent (Wales) Order 2003. Also that the transfers if approved will meet the objectives of the Well Being of Future Generations (Wales) Act 2015 and the Council's policy commitments of creating a Healthier Swansea.
- 5.6 In relation to each individual proposed transfer, the Head of Property Services will need to be satisfied that each disposal is in accordance with the Community Asset Transfer Policy in that it will create a mutual benefit to both the Council and the community by promoting social, economic or environmental wellbeing and support the aims and priorities of the Council. Community Asset Transfer is an established mechanism used to enable the community ownership and management of public owned land and buildings. The ultimate aim of Community Asset Transfer is community empowerment, that is, to ensure that land and buildings are retained or transformed for public benefit through community asset ownership or management.
- 5.7 There will be no additional long-term revenue or capital financial commitment required by the Council for any new facilities provided at any site agreed to be disposed of under the policy, as this will be the responsibility of the requester from the start date of the lease until its determination.
- 5.8 The Council will receive, review and validate a business case from the requester, which includes their form of organisation and the proposed community benefits that any transfer will achieve in line with the Community Asset Transfer Policy,
- 5.9 Any loss in revenue from sports pitch permits or event hires of the open space, land or buildings will be captured within the overall business case, and as a principle will be fully offset with the reduced cost of maintenance and repairs of any associated facilities. The relevant Director(s) supported by the S151 Officer will determine whether it is appropriate to adjust internal Council budgets to reflect the loss in revenue/income in one cost centre, to be offset against through savings in another cost centre.

6. Legal Implications

- 6.1 Section 123 of the Local Government Act 1972 and the Council's Land Transaction Procedure Rules set out in the constitution apply to these proposed disposals. Under s123 LGA 1972 a local authority has the power to dispose of land held by it in any manner it wishes provided that the local authority achieves the best consideration that can reasonably be obtained

except where the disposal is for a short tenancy (less than 7 years) or the local authority has the consent of the Welsh Ministers. Under the Council's constitution the responsibility of determining in what manner the land will be disposed of in order to obtain best consideration lies with the Head of Property Services.

- 6.2 Under the General Disposal Consent (Wales) Order 2003 the Welsh Ministers have issued a general consent for disposals of land under s123 for less than best consideration. This allows a local authority to dispose of land for less than best consideration if it considers that the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the extent of the undervalue is no more than £2m.
- 6.3 There are specific powers and requirements for the disposal of land held by a local authority for planning purposes, housing, allotments, open space and school playing fields.
- 6.4 Where the land is deemed open space, the Council is required under s123 to advertise the disposal of the land in the local newspaper for two consecutive weeks and to give full and proper consideration to any objections. The key issue for the Council is to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of disposing of the land.
- 6.5 Following the publishing of open space notice and where no objections are received, the Community Asset Transfer Policy and Procedure will be followed, along with the principles set out within this report. Where objections are received, the relevant Director in consultation with Head of Service and Cabinet Member will determine the appropriate reporting route to fully consider any objections, with the key issue for the Council to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of disposing of the land.
- 6.6 In order to dispose of land which is currently playing fields the local authority must comply with The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015. The Council must before making a decision to dispose of a playing field, or any part of a playing field, publish on two consecutive weeks in at least one local newspaper a notice of the disposal and display a copy in at least one place on or near the playing field to which the disposal relates, and, in any event, at each official entrance to the playing field, for not less than 6 weeks. Copies of the notice and details of the disposal also need to be sent to a number of organisations as set out in the regulations.

The requirements contained in the regulations do not apply where:

- The proposed decision to dispose relates to the grant of an interest in the playing field, or any part of the playing field, that does not have an adverse

impact on the use of the playing field as a sports or recreational facility by the public;

- The playing field is to be retained as a sports or recreational facility for use by the public and the disposal is to be made to a local authority or a body whose aims or objectives include the promotion of sporting or recreational activities.

6.7 Where property has not been advertised on the open market, the Council's constitution specifies that if there has been no marketing of the Land or only one person has indicated an interest to purchase there can be no such disposal of land except where the Head of Property Services or his nominee is satisfied that the disposal would be in accordance with the applicable statutory requirements. In considering this, the Head of Property Services may have regard to the following matters (among others) (a) the robustness of the valuation evidence (b) the likely market for the Land now and in the future given its relevant physical, legal or other characteristics, (c) the potential for the Land to be transferred to and used by a community council or Third Sector/Community Group in accordance with the CAT Policy, (d) responses (if any) received by the Council following reasonable marketing of the Land and (e) whether the disposal would achieve a corporate objective or contribute to the promotion or improvement of the economic, social or environmental wellbeing of people or communities in its area (taking into account all considerations including subsidy controls).

6.8 The lease documentation will contain all the relevant provisions to protect the Council's interest.

Background Papers: None

Appendices:

Appendix A - IIA Screening Form

Appendix B - Site Plans