

North Yorkshire Council - Community Asset Transfer Policy Operational Procedures

The operational procedures outlined in this document relate to Community Asset Transfers (CATs) only. Community Service Transfers (CSTs) are subject to similar principles and approach but will undergo a distinct, service-focused assessment and appropriate governance, tailored to the proposal. This document is intended as a high-level overview of the process. User-friendly guidance and templates will be developed and made available for applicants. As indicated in the Policy document a proportionate approach can be taken for smaller, low-risk sites. The Council will collaborate and support all applicants equally with applications.

1. Overview of Process

The overall process consists of:

Stage One – Expression of Interest (EOI): includes validation, Property Test and Organisation Test.

Stage Two – Business Case: includes Viability Test and Value for Money Test.

Stage Three – Legal Agreement: approvals and statutory/compliance requirements in line with Council's existing Property Procedure Rules.

Notes:

- If the application is particularly large or complex, it will be taken to an appropriate Board noting that it will likely require additional information and consideration. If agreed, this could follow a similar process to that outlined below, but decision-making may differ.
- Community Grow applications are co-ordinated by the same teams, alongside the Public Health Team, and are subject to the Community Grow Policy and Process (attached at Appendix C). Community Grow is a separate Policy, which is aligned with, and complements, this Policy. It enables community use of Council-owned land through time-limited licences for the purposes of growing food. It provides a streamlined and proportionate route for community involvement where a long-term asset transfer is not appropriate. Assessment under Community Grow is limited to an Expression of Interest, with no requirement for a Business Case, and operates in accordance with the Community Grow Policy and Process (Appendix C).

2. Stage One – Expressions of Interest Assessment

The purpose of the EOI assessment is to determine if the applicant organisation is appropriate and able to deliver their proposal and whether the Council is willing to potentially dispose of the site (and what type of transfer, lease or other arrangement is most suitable).

2.1 Validation

Applicants will have completed an EOI Form and submitted this to localdevolution@northyorks.gov.uk. Acknowledgment of receipt of a completed EOI will be sent to an applicant within five working days,

Validation of the EOI will be undertaken by Property Services, Parish Liaison Devolution and Community Rights (PLDCR) and relevant service area (if applicable).

All EOIs will be validated to ensure that the application includes information required to enable it to be assessed, and to identify any other site/service specific issues.

It is at this point that applications will be considered, and additional information requested either from the applicant or internal services. Considerations could include:

- Is it asset/service/both?
- Is it a complex/large/income generating proposal? Consideration of level of decision making at early stage
- Is it excluded? Refer to exclusions in the Policy
- Does the EOI form include all information?
- Is there scope to transfer the property at less than market value?
- Is it an Asset of Community Value? If yes, it is potentially more appropriate for it to be transferred. Also, in some cases there is a requirement to notify assetsofcommunityvalue.NYC@northyorks.gov.uk of the intention to dispose and trigger the ACV disposal process at the appropriate time. In the future, this will include notifying the group who nominated the site as an ACV as they may be the preferred community buyer in an updated ACV process, which may impact how the CAT applications progresses and timescales.

As part of this process, if required, the following will be requested:

- Title Report from Legal Property
- Opinion of value to be undertaken by an RICS qualified practitioner (capital asset value and market rental value/capitalized market rental value)
- Boundary plan from Computer Aided Mapping

Outcomes

- Once considered valid and all information has been received, the application can progress to a Property Test
- Property Services to:

- Identify the asset on the NYC database Concerto by UPRN/Establishment Site code
- Indicate on the database that this is an asset identified for potential CAT

2.2 Property Test

In most cases Legal Property will have been instructed to produce a Title Report to inform the Property Test.

The Property Test includes the following considerations:

- a) Site name
- b) Address
- c) Concerto reference
- d) Current use
- e) Current condition
- f) Existing tenancy agreement
- g) Proposed use of the building – provide comment on this, is it continuing use or change?
- h) Has a freehold/leasehold/other agreement been requested?
- i) Current market value or market rent
- j) Is it appropriate to transfer? If yes, include details on constraints, type of transfer, and if the type of transfer same basis as requested. If no, reasoning plus alternatives if available

Services to be involved in Property Test include:

- Property Services
- Legal Property Team
- Appropriate service leads (if applicable)

The Property Test should be formally signed off by Property Services and indicate the type/format of potential transfer. **This is a formal decision, and the application will go forward on the basis of this decision.** It is not intended that this decision could be reversed at a later date (unless there are exceptional circumstances such as the emergence of new statutory requirements, previously unknown title or condition constraints, or materially changed service or corporate priorities) and therefore the decision should be at an appropriate level, in line with the Council's Scheme of Delegation.

If the site identified by the applicant is not suitable but Property Services are aware of a viable alternative, the applicant will be advised of this, and the application could proceed on this basis.

2.3 Organisation Test

An Organisation Test takes place after the Property Test has been successfully completed.

The Parish Liaison, Devolution and Community Rights Team, supported by Communities Team, undertake the Organisation Test. This should include

comments from other service lead(s), including Finance review, as appropriate.

All impact assessment screenings are undertaken (Data Protection, Climate, Equalities).

An Organisation Test includes the following considerations:

- a) Confirmation of the organisation's name and status (existing or proposed)
- b) Validation of the organisation type and legal form, including whether it has, or plans to establish, independent legal status
- c) Assessment of whether the organisation operates on a not-for-profit basis and delivers clear social, economic or environmental benefit to the people of North Yorkshire
- d) Evaluation of alignment with the Council Plan and strategic priorities
- e) Review of organisational effectiveness in delivering its purpose (where the organisation already exists)
- f) Assessment of governance arrangements, financial position, and state of accounts – this could include credit checks
- g) Consideration of the organisation's approach to equality, diversity and inclusion for staff and service users
- h) Assessment of skills and capacity to deliver the proposed services (where applicable)
- i) Assessment of skills and capacity to manage the property safely and compliantly, including meeting relevant legal and regulatory requirements
- j) Consideration of whether the proposed use of the property is appropriate and sustainable
- k) Assessment of the scale of community benefit relative to the size and nature of the property
- l) Evaluation of community engagement and local support for the proposal
- m) Overall judgement on whether the information provided inspires confidence in the organisation's ability to deliver the proposal

Services to be involved in Organisation Test include:

- Parish Liaison, Devolution and Community Rights Team
- Communities
- Finance
- Appropriate service leads (if applicable)

2.4 Formal Sign Off of Stage One (EOI)

An outcome meeting will be held with the Head of Localities and Head of Commercial (Property, Procurement & Commercial), or their nominated representatives, to formally approve the results of the Property and Organisation Tests and finalise the sign off of Stage One – Expression of Interest. Where it is not possible to hold a meeting, written sign off is acceptable.

Outcomes

- If unsuccessful, applicant informed of reasons why and if the application is unsuccessful due to assessment of the Organisation Test feedback is

provided to enable a future resubmission

- If successful:
 - Applicant is invited to submit Business Case
 - Provisional Heads of Terms produced by Property Services
 - Relevant information about the site should be requested from internal services and collated, including HR/TUPE information if relevant
 - Useful information about the site is shared with the applicant (provisional terms, running costs, maintenance, condition, etc.)
 - PLDCR and Communities Teams can co-ordinate additional support for applicants to help with Business Cases development
- If an EOI is successful, details of the site and applicant will be published on the Council's website. A two-week notification period will then apply, during which other organisations may register an interest in submitting an EOI. Where a further organisation indicates its intention to proceed, its EOI must be submitted within ten weeks of the publication date. In certain contexts, the Council will also actively engage locally to identify potential interest.

3. Stage Two – Business Case Assessment

The purpose of the Business Case is for the applicant to provide detailed information about their proposal so that the Council can assess the viability and value of the plans. Business Case assessment will evaluate whether the plan, including finances, for the proposal are realistic and sustainable. The outcome will be a decision on whether it is appropriate to transfer the land below market value. Assessment will be proportionate and applied consistently, fairly and transparently.

3.1 Business Case Submissions

Applicants will have completed Business Case and submitted this to localdevolution@northyorks.gov.uk. A template is available. Applicants can use the structure of the template to produce a bespoke document, however this should include all the sections in the same order.

Relevant internal services will share appropriate information with the applicant to enable Business Case development. For example, costs, maintenance schedules and any other key information such as condition surveys.

The PLDCR and Communities Teams can co-ordinate support to help applicants with their Business Cases if requested.

Where there are multiple Business Case submissions for the same site, from different groups, all Business Cases will be considered before a final decision is made.

Where no Business Case has been submitted within 12 months of the Council sharing the relevant information, the applicant may, in some circumstances, be

requested to resubmit their EOI.

3.3 Viability Test

PLDCR undertake a Viability Test, with Communities Team and other service lead(s) as appropriate. The Viability Test is designed to provide assurances based on risk including financial and legal considerations. The Viability Test will assess the information provided in the Business Case and focus on:

- Assessment of the robustness and realism of start-up and ongoing running costs, including coverage and sensitivity to change
- Review of funding sources for start-up and operational costs, including complexity, timing and security of funding
- Consideration of the sustainability of the proposal, including the timing of any break-even point relative to the length of the lease or agreement (where relevant)
- Assessment of the legal viability of the proposal, including compliance with legal requirements and the organisation's capacity to enter into the arrangement
- Review of a risk register covering start-up and operational risks, including the realism of identified risks, mitigations and the overall post-mitigation risk position

3.4 Value for Money Test

PLDCR undertake Value for Money Test, with Finance and other service lead(s) as appropriate.

To facilitate the Value for Money Test the following information is required (over a ten-year period):

- Confirmation of rent, receipt or premium offered by the applicant
- Market value of property (tailored to type of transfer e.g., of freehold, leasehold, market rental value/capitalised rental value or value of licence)
- Cashable savings offered or resulting from transfer
- Non-cashable savings
- Additional NYC expenditure
- Lost NYC income

Taken together the information above provides a financial value. This financial value is assessed against the social value of the proposal. The social value of the proposal is determined by as assessment of the following:

- Use value - the services or activities to be delivered, including whether these replace, expand, complement or add to Council services, and the scale of benefit relative to the local community.
- Social value - contribution to community cohesion, inclusion, health, wellbeing, safety, economic participation, employment, training or volunteering.
- Cultural value - impact on sense of place, civic pride, local character and the

protection or use of heritage assets where relevant.

- Environmental value - contributions to environmental sustainability, climate change mitigations and adaptation, including, where possible, measures relating to energy efficiency, waste minimisation, biodiversity enhancement, or other climate-positive practices.
- Image and reputational value - positive impacts on perception of the area and the Council's reputation.

This framework is indicative and non-exhaustive. Applicants may provide additional information that is relevant and specific to their proposal, proportionate to its scale, complexity and intended outcomes.

3.5 Formal Sign Off of Stage Two (Business Case)

An outcome meeting will be held with the Head of Localities and Head of Commercial (Property, Procurement & Commercial), or their nominated representatives, to formally approve the results of the Business Case Assessment and finalise the sign off of Stage Two – Business Case. Where it is not possible to hold a meeting, written sign off is acceptable.

Outcome

- If unsuccessful, applicant informed of reasons why and feedback is provided
- If successful, applicant invited to confirm if they wish progress to next stage
- Outcome of Business Case assessment published on the NYC website

3.6 Indicative Timescales

The process is not subject to statutory deadlines. However, to support transparency and manage expectations, the Council will work to the following indicative timescales:

- At the point of validation, an indicative timeframe for progressing the application may be agreed with the applicant, especially where the anticipated cost of ownership is considered high, or there are other relevant time-sensitive factors.
- Up to 12 weeks for the Council to assess an Expression of Interest (EOI).
- Where a Business Case is required, applicants will normally be given a period of between 4 and 12 months to submit this, with the exact timeframe agreed on a case by case basis, considering factors such as the anticipated cost of ownership and complexity of the proposal.
 - The agreed timeframe will typically commence only once the Council has provided the applicant with relevant information, where available, to support the preparation of their Business Case (e.g., provisional terms, and indicative information relating to condition, defects, maintenance requirements, or estimated costs - this should be received within 12 weeks following communication of the EOI outcome). This period is expected to apply primarily to more complex applications.

- Where a Business Case has not been submitted within the agreed timeframe, the applicant may, in some circumstances, be requested to resubmit their Expression of Interest.
- Up to 8 weeks for the Council to assess a Business Case.

These timescales are indicative and may vary depending on the scale, complexity and risk of the proposal.

4. Stage Three – Legal Agreement

4.1 Property Procedure Rules

Once an application has been approved and the applicant has confirmed they wish to progress to the next stage, Property Services will obtain formal approval in line with the Council's Property Procedure Rules. All relevant stakeholders including Local Councillors should be made aware of the transfer.

Before a disposal takes place, Property Services will ensure that the property meets building compliancy requirements, including where applicable:

- Gas Safety Certificate
- Fixed Wire Certificate (Electricity)
- Fire Safety Plan
- Asbestos Management Plan
- Legionella Safety Plan

Property Services will ensure transfers are compliant with the Local Government Act 1972, Section 123 and the Subsidy Control Act 2022.

4.2. Heads of Terms

Once formal approval is obtained in line with the Property Procedure Rules, Property Services will agree a final version of the Heads of Terms with the applicant (in consultation with Legal Property Team). Once Heads of Terms are agreed, Property Services shall ensure that the same are signed and dated by both the applicant and an appropriate NYC officer.

4.3 Instructing Legal Services

Once Heads of Terms have been agreed and signed by both parties, Property Services will formally instruct Legal Services. The email must contain:

- Heads of Terms, signed and dated by both parties
- Redeployment Report, signed and dated by an appropriate officer in line with the Property Procedure Rules
- Land Registry compliant plan of the property, showing a scale, North pointer and sufficient surrounding detail and street names to enable the property to be easily identified. If any rights are to be granted or reserved (e.g. access rights for the applicant over neighbouring land retained by NYC) these should also be identified on the plan and referred to in the Heads of Terms.

- Copies of all relevant compliance documentation including (if applicable) gas and electrical test certificates, asbestos data, Fire Risk Assessments, legionella tests

On receipt of formal instructions, Legal Services will allocate the matter to an appropriate fee earner, who will then draft the required documentation and issue the same to the applicant (or their solicitor if one is instructed).

4.4 Fees

Legal Property and Property Services costs chargeable to the applicant relating to the agreement/transfer will be met by the PLDCR Team.