

Wards Affected:

Loughton and Shenley

ITEM 5**DELEGATED DECISION****24 JUNE 2014****MEDBOURNE COMMUNITY SPORTS PAVILION AND PLAYING FIELDS:
TRANSFER OF THE FREEHOLD OWNERSHIP TO SHENLEY CHURCH END
PARISH COUNCIL**

Decision Taker: Councillor O'Neill, (Cabinet member for Community Asset Transfer)

Authors: Paul Sanders, Assistant Director, Community Facilities Tel (01908) 253639
Neil Hanley, Community Solutions Programme Manager Tel (01908)
253632**Executive Summary:**

It is proposed that Medbourne Community Sports Pavilion and Playing Fields (as outlined in the Annex) is transferred to Shenley Church End Parish Council under the Council's Community Asset Transfer Toolkit and Programme. This future arrangement will, under the leadership of Shenley Church End Parish Council continue to provide improved high quality provision of various leisure and community activities for the people of Medbourne and the wider Milton Keynes into the future.

1. Recommendation(s)

- 1.1 That the freehold ownership of Medbourne Community Sports Pavilion and Playing Fields transfers to Shenley Church End Parish Council, on the basis of the agreed Heads of Terms.

2. Issues**2.1 Background**

The Community Asset Transfer (CAT) programme was considered by Cabinet in January 2012 and following a pilot scheme was subject to review by the Housing and Communities Select Committee (July 2012, April and October 2013) and approved by Delegated Decision on 31st July 2012. The CAT programme is part of Cluster 7 MKC Land and Property Major Projects and Programmes and has as an objective of:

'enabling local community partners to take more responsibility for local assets and wishes to empower these new arrangements with those organisations that may be best-placed to achieve this.'

2.2 The Two Stage Application Review

The Toolkit: 'Milton Keynes Council's Approach to Community Asset Transfer', (adopted by Cabinet in July 2012) was applied to this asset. Following receipt on 17th February 2014, applications from both Milton Keynes Leisure (MKL) and Shenley Church End Parish Council (SCEPC) have been reviewed in detail at an overall and individual criteria level by CAT Project Board members to provide the Cabinet with robust and evidenced comment in relation to the following

Stage Two application criteria:

- Relevant experience (credentials of the organisation, governance, managing policies)
- Managing the asset (operational proposals, facility maintenance development)
- Promoting the asset (advertising plans to generate community interest)
- Finances (financial validity, projections for next three years, budget management)
- Risk assessment (mitigating risks)

In addition to this report, the CAT Project Board application reviewed the outcomes which are presented as an Officer Assessment report and is available to view as a background paper.

Officers have allocated three marks to each criteria in accordance with the Council evaluation template as set out in the Stage 2 application form:

| | |
|---|--|
| 0 | Response does not meet criteria and/or is unacceptable |
| 1 | Response partially meets requirements but contains material weakness, issues or omissions and/or is inconsistent |
| 2 | Response fit for purpose. Good in many respects. No significant weaknesses, issues or omissions |
| 3 | Response meets criteria to exceptional standard. Robust and detailed in all material respects. Minimal omissions |

2.3 Summary of Assessment Scores

The table below summarises the scores for each of the submitted proposals. Both of the submissions scored highly and there are no areas in which either of the proposals failed to meet the minimum criteria.

| Criteria | MKL | SCEPC |
|----------------------------|-----------|-----------|
| Experience | | |
| Experience & Credentials | 3 | 2 |
| Governance | 2 | 3 |
| Policies and Procedures | 3 | 1 |
| Managing the asset | | |
| Operational Proposals | 2 | 3 |
| Maintenance & Development | 2 | 3 |
| Promoting the asset | | |
| Marketing Proposals | 2 | 2 |
| Finances | | |
| Financial Viability | 2 | 3 |
| Risk | | |
| Risk Assessment | 1 | 2 |
| Overall Scores | 17 | 19 |

Both of the submissions satisfy the CAT Stage Two assessment criteria and should deliver the range of benefits sought by the CAT programme. Overall the proposal from SCEPC scores higher than the submission from MKL and is

considered to be a more attractive proposition as a result of the following factors:

- A more robust governance model
- A stronger operational, maintenance and development proposal
- Slightly less ambitious revenue projections.

Through the two-stage application process and subsequent assessment panels, SCEPC demonstrated that they met the criteria in terms of being a locally run, locally controlled, non-profit distributing, inclusive, and democratic organisation. Their subsequent business plan submission clearly demonstrated that as an organisation they meet the requirements of the CAT programme for a freehold transfer, and in the opinion of the relevant officers they have the required levels of experience of delivering services to the local community. Further to this, following approval by Cabinet through a delegated decision on 25th March 2014 it was proposed that Medbourne Community Sports Pavilion and Playing Fields continues through the CAT application process on a freehold basis.

2.4 Other Considerations

The primary purpose of the Medbourne Community Sports Pavilion and Playing Fields is to provide sporting and leisure activities for the community. The asset transfer will impose covenants or restrictions on use and if these are breached the Council could seek an injunction to prevent the unauthorised use, and can call for a payment of money based on any increase in value arising from the change of use. If claw-back is not paid, the Council will have a right to acquire the property for £1.

It is proposed to transfer the site, for the sum of £1, subject to restrictive covenants, claw back and a right of pre-emption to protect the Council's interests in ensuring that the asset continues to be used for community-oriented purposes. The Council is able to transfer the properties at less than best value through the use of the well-being powers contained in the General Disposal Consent 2003 mentioned below, which allows for such a disposal where it benefits the economic, social or environmental wellbeing where the undervalue is up to a maximum of £2 million. Medbourne Community Sports Pavilion and Playing Fields has been valued at less than £2 million.

Controls would be centred upon general property-related restrictions and claw back based upon facility use. There would be a restrictive covenant not to use Medbourne Community Sports Pavilion and Playing Fields for commercial purposes except ancillary to the overall current use of the facility, and that if the facility is left vacant for more than one year or sold or leased to another organisation without the Council's permission, the Council may take it back.

3. Options

- 3.1 An option could be to transfer Medbourne Community Sports Pavilion and Playing Fields down a CAT route under a 999 year lease however the level of protection and controls is very limited. The reason for this is that the Council cannot specify a service and if it does then the Council has to commence a procurement process via in-tend and also where above a certain value advertise the opportunity in Europe.

- 3.2 This asset could be brought into direct Council management
- 3.3 This asset could be sold at a commercial market rate with little future control by the Council.
- 3.4 The Asset could be put out to tender on a lease, serve contract and specification of service

4. **Implications**

4.1 Policy

The Council’s approach to Community Asset Transfer was formally adopted on 31 July 2012 following a delegated decision.

The objectives of the programme are firmly embodied within the current version of the Corporate Plan.

4.2 Resources and Risk

Shenley Church End Parish Council would take full responsibility for the asset, its liabilities and relevant capital investment into the future. There will be revenue saving as a result of the transfer of ownership by Milton Keynes Council to the Parish Council of £35,995 in 2014/15 of operation.

| | | | | | |
|---|---------|---|------------------|---|------------------|
| Y | Capital | Y | Revenue | N | Accommodation |
| N | IT | Y | Medium Term Plan | Y | Asset Management |

4.3 Carbon and Energy Management

Maintaining the resources at Medbourne Community Sports Pavilion and Playing Fields would provide a service for a wide variety of groups, both young and old, which they would otherwise have to travel further afield to achieve.

4.4 Legal

Throughout, the Council’s Legal team have been closely monitoring the impact of any legislation that might affect the progress of CAT and will continue to do so in the future.

Transfers at undervalue would potentially contravene State Aid regulations, which means they would be unlawful. The Council’s legal department advises this transfer does not contravene State aid.

Under S123 of the Local Government Act 1972, property disposals are to occur on the basis of best value being obtained. The Local Government Act General Disposal Consent 2003 provides a relaxation to this requirement up to a maximum value of £2m where the transfer will further the wellbeing of residents of Milton Keynes

4.5 Other Implications

As an integral part of this transfer arrangement an Equalities Impact Assessment has been completed. (Available on request)

The programme was promoted on the Council’s web link applications and the two stage application process was made available on-line.

Thorough public consultation on the Community Asset Transfer (CAT) Toolkit took place over a three-month period (31 January 2012 – 24 April 2012). Stakeholders had the opportunity to attend numerous events that were held across Milton Keynes and a public engagement event was held at Medbourne Community Sports Pavilion and Playing Fields clarifying the specific aspects related to this proposed asset transfer.

The local Ward Members as key stakeholders are aware of this development and have been involved in the consultation.

| | | | | | |
|---|----------------------|---|----------------|---|--------------------|
| Y | Equalities/Diversity | N | Sustainability | N | Human Rights |
| Y | E-Government | Y | Stakeholders | N | Crime and Disorder |

Background Papers: Officer Assessment Reports for Milton Keynes Leisure and Shenley Church End Parish Council

Annex: Plan of Land to transfer