

Wards Affected:

Bletchley East

ITEM 4**DELEGATED DECISION****13 JANUARY 2015****FENNY CHAPEL: TRANSFER OF THE FREEHOLD OWNERSHIP TO BLETCHLEY & FENNY STRATFORD TOWN COUNCIL**

Responsible Cabinet Member: Councillor E Gifford, Cabinet member for Community Services

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Executive Summary:

It is proposed that Fenny Chapel (as outlined in Annex A or such interest in it as Milton Keynes Council has) is transferred to Bletchley & Fenny Stratford Town Council under the Council's Community Asset Transfer Toolkit and Programme. This future arrangement will, under the leadership of Bletchley & Fenny Stratford Town Council continue to provide improved high quality provision of various leisure and community activities for the people of Bletchley & Fenny Stratford and the wider Milton Keynes into the future.

1. Recommendation(s)

That the Council will transfer any or such title as the Council may have in the Fenny Chapel to Bletchley & Fenny Stratford Town Council, with no assurances as to title and no warranties.

2. Issues

Background

2.1 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 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.

2.3 The Toolkit: 'Milton Keynes Council's Approach to Community Asset Transfer', (adopted by Cabinet in July 2012) was applied to this asset. Through the two-stage application process and subsequent assessment panels, Bletchley & Fenny Stratford Town Council 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 freehold transfer, and in the opinion of the relevant officers they have the required levels of experience of delivering services to the local community.

Bletchley & Fenny Stratford Town Council (BFSTC) has provided this statement from their business plan:

"Bletchley and Fenny Stratford Town Council wishes to take over the management of the asset as it would give us much needed storage space that is desperately needed in this ever growing climate of Town Council duties and responsibilities. Due to the nature of location and the love that people have to see it retained in the Parish; though it is not a listed building the building itself is at the centre of many members of the public's hearts and would not like to see a building of historical value disappear due to nothing being done."

In their business plan, BFSTC sets out a firm commitment going forwards as follows:

"The Town Council wishes to bring this facility back into the public domain, to ensure that it's used albeit for storage rather than left to deteriorate the community can also benefit from the restored version of a much loved building."

2.4 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. Fenny Chapel has been valued at less than £2 million.

2.5 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 Fenny Chapel 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.

2.6 The chapel is within Manor Road Cemetery, Fenny Stratford. It is not registered at the Land Registry so its ownership is not on the public record. Milton Keynes Council has been investigating whether it owns the property, it has no title by occupation and use (A doctrine known as Adverse Possession) A decision is therefore sought that the property may transfer if and when the Council establishes that it is the owner. Whilst that is a prerequisite or

condition for any transfer it is elaborated here to highlight the more unusual and historic – and so possibly longer - nature of enquiries to be satisfied. Depending on the outcome of those enquiries it may also be necessary to notify the Diocese of Oxford

3 Options

The alternative option would be for the Council, as freehold owner, to continue taking landlord-related responsibility for Fenny Chapel its liabilities and relevant investment in the future. However, this does not recognise the value of ‘Localism’, enabling local community partners to take more responsibility for local assets and to empower these new arrangements with those organisations that may be best-placed to achieve this.

4 Implications

4.1 Policy

The Council’s approach to Community Asset Transfer was formally adopted on 31st 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

Bletchley & Fenny Stratford Town Council would take full responsibility for the asset, its liabilities and relevant capital investment into the future. There will be no revenue saving as a result of the transfer of ownership by Milton Keynes Council to Bletchley & Fenny Stratford Town Council.

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4.3 Carbon and Energy Management

Maintaining the resources at Fenny Chapel would provide a service for a 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 well being of the residents of Milton Keynes

4.5 Other Implications

This asset has been looked at in light of the recent Community and Cultural Services Review (CCSR). This has no impact on the CCSR as the building is

not appropriate and is too small for youth, children's or library activity to operate from here.

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 (31st January 2012 – 24th April 2012). Stakeholders had the opportunity to attend numerous events that were held across Milton Keynes and a public engagement event was held at the Methodist Church Hall in Queensway 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:

Annex A: Plan of Land to transfer