



Community Lettings Policy

November 2022

Community Lettings Policy

1. Introduction

The Council's municipal asset portfolio assets comprises some 668 assets, the biggest category of which consists of land (50%) but also includes buildings, and structures within the borough of Spelthorne. The assets are held by the Council to provide benefits to those who live and work in Spelthorne. The assets are varied including public recreation grounds, play parks, allotments, open space, highway land, grazing land, bridges, war memorials, public art, bowling greens, cemeteries, leisure centres, car parks, community halls, the depot, nurseries, day centres, public toilets, park buildings (pavilions and changing rooms), the nursery and scout & guide huts (N.B. this list is not exhaustive and does not include miscellaneous land that may be considered for future community use).

The Council's portfolio of assets are held to; support direct service delivery, support delivery by partners including the voluntary sector, stimulate economic activity and regeneration and support the Council's budgets. The Council has a duty to act as custodian of community assets whilst supporting and facilitating third sector development through community use agreements/leases.

The Council defines a Community Asset as a building and/or land that has a community use and from which a community-based activity or service to the community is or could be delivered. Where a Community Asset is considered suitable for beneficial use by a third party through a lease agreement the Community Letting Procedure is to be applied. The Community Letting Policy sets out the leasing procedure for all lettings of Community Assets.

For the purpose of this policy the term Community Letting refers to the allocation of a lease of a Community Asset to a community organisation for 5 years or more.

2. Purpose of the policy

The purpose of the Community Lettings policy is to establish a transparent and positive framework that sets out the Council's desired objectives for long-term community asset usage. This policy will be used to robustly evaluate current and proposed community usage arrangements through the establishment of a cross service evaluation criteria and procedure. The procedure will:

- ☐ source information across services to respond to queries from organisations in a timely manner.
- ☐ ensure that Elected Members and officers understand how the evaluation of community asset usage can benefit both the Council and local communities.

Through implementation of the policy and procedure, the Council will ultimately gain a robust methodology to inform and influence long-term community asset usage decisions.

3. Objectives

The objectives of this policy are:

- ☐ to ensure a transparent, equitable process for the assessment of community assets and their future use
- ☐ to maximise the benefit of Council owned assets for local communities
- ☐ to maximise the utilisation of community assets through shared usage arrangements
- ☐ to provide long-term sustainability for services and assets to ensure due consideration is given to assets that are already highlighted for potential investment by external sources
- ☐ to provide value for money for the Council and residents
- ☐ to provide a stimulus for partnership working
- ☐ to enhance the Council's reputation

4. Local policy context

The Council will adopt an agreed method of assessing the benefits of current use vs proposed community use that is strategically linked to the Council's corporate priorities. The Corporate Plan 2021-2023 lists the following corporate priorities:

Community – To build strong relationships with our residents and businesses and helping to forge links within those communities so that they feel empowered, included, supported, safe and healthy.

Affordable Housing – To deliver housing that meets the needs of all sections of our communities, building new homes, helping people to stay in their existing accommodation and ensuring that none of our residents are homeless.

Recovery – To provide support and guidance to our residential and business communities to enable them to recover from the significant effects of the COVID-19 pandemic.

Environment – To work with our communities and partners to minimise our effects on the environment, play our part in tackling the threat of climate change and to maintain a clean, green, attractive Borough which recognises and protects diversity.

Service Delivery – To deliver efficient and effective services which meet the changing needs of our communities, adapting to meet new challenges, new ways of working and different ways of interacting with our communities.

The Asset Management Plan for Spelthorne Borough Council sets out the Council's commitment to undertaking a comprehensive review of the municipal asset portfolio. The key issues to be identified are:

- ☐ the suitability of the building/ location for the delivery of the service
- ☐ whether the service is needed for the long-term
- ☐ whether the property occupied represents or could represent value for money.

The findings from this review together with the Corporate Priorities and other adopted Council policies will be used to assess the potential future use of the asset. It will assist in identifying if an asset can be considered a Community Asset and whether the Community Letting Procedure will apply.

5. Principles of the Community Lettings Policy

The policy on Community Lettings is underpinned by the following principles:

- ☐ any proposed community letting must support the aims and priorities of the Council as set out in an adopted policy e.g. Corporate Plan, Asset Management Plan, Health and Wellbeing Strategy
- ☐ any community asset usage criteria and procedure must support the overall policy objectives
- ☐ recognise the Council's dual roles as a supporter of the third sector but also as a steward of publicly owned assets
- ☐ all Council service areas and Elected Members will endorse and help deliver this agenda
- ☐ the policy will be maintained and delivered by a Corporate Working Group consisting of representatives from Asset Management, Community Wellbeing and Neighbourhood Services.

This policy will be supported by a robust evaluation criteria and procedure as set out in this document and appendices.

For clarity:

- ☐ This policy applies to the grant of a lease (the grant of legal interest in land which gives exclusive possession for a fixed period of time) of five or more years but will exclude licences or other tenancy arrangements. All leases of less than five years or other tenancy arrangements are subject to the approval process under the Council's Constitution.
- ☐ This policy will also apply to lease renewals or where we have a vacant property which is surplus to Council requirements. As an authority we do need to ensure that every opportunity is offered out to other community organisations regardless of whether or not there is a current tenant whose lease term is coming to an end to ascertain which community use might be best for the premises and community. The only situation where this would not apply would be when the tenant has a legal right to renew their lease under the Landlord and Tenant Act 1954 or there are other legal or technical reasons why this cannot be done.
- ☐ At lease expiry if a current tenant is seeking to renew the lease the Asset Management Team (and/or Corporate Working Group where appropriate) will review the conduct of the tenant during the lease term. The tenant's conduct will be reviewed and scored (Appendix 5) taking into account the following factors;
 - o rent payment history
 - o compliance with lease terms
 - o community use
 - o occupancy levels
 - o tenant funded alterations and investment in the asset
 - o landlord and tenant relations

- o tenant and neighbour relations

On reviewing the tenant's past performance in line with the above criteria. Ward Councillors will be asked to approve the officer's recommendation on whether or not the Council is willing to renew the lease. If supported then an Exceptional Circumstances Form will be completed and forwarded to the Chair and Vice Chair of the Corporate Policy and Resources Committee for final approval. If not supported by Ward Councillors then the Community Letting Procedure will apply and the asset will be advertised to allow other expressions of interest.

- On occasion an existing tenant may apply to take a lease of additional space within the same building or within the curtilage of the asset that they already occupy. In such circumstances the Asset Management Team (and/or Corporate Working Group where appropriate) will review the tenants conduct using the criteria outlined above (Appendix 5). Before reviewing the tenant's conduct the additional space to be granted to the tenant must be for a use that is a continuation of the permitted use under the existing lease and the term to be granted should be no greater than the tenant's unexpired term. If these circumstances apply the Asset Management team (having consulted with the Corporate Working Group) will make a recommendation to the Ward Councillors and if approved an exemption to the Community Letting Procedure will be granted by an Exceptional Circumstances Form agreed by the Chair and Vice Chair of the Corporate Policy and Resources Committee. If the Ward Councillors do not recommend the letting then approval will not be granted to the tenant and the Asset Management Team have the option to apply the Community Letting Procedure and advertise the asset to allow other expressions of interest
- On occasion an existing tenant may apply to carry out works to extend the building which they occupy which will require the grant of a supplemental lease. The grant of the supplemental lease will not require the opportunity to be openly advertised under the Community Letting Policy. The decision to grant approval for any extension to the premises and any supplemental lease will be subject to the approval of the Ward Councillors and the Corporate Policy and Resources Committee.
- Prior to applying the Community Letting Policy each individual asset will be looked at in its own right to identify what type of organisation would be suitable for the property (e.g., a small toilet might be suitable for a business or a community use and this will be determined prior to advertising). Ward Councillors will be notified of the intention to advertise the asset to let under the Community Letting Policy. If the asset has the potential for re-purposing the options will be presented to the Ward Councillors to decide on the most appropriate use of the asset. If the re-purposing requires capital expenditure, then further approval may be required under the Council's Constitution. If approval is granted by either the Ward Councillors or the relevant Committee, officers will proceed with the Community Letting Policy Procedure documented in this policy to identify a suitable tenant.
- From time-to-time officers receive requests from members of the public who would like to take a lease of a building or structure which is not in use and/or is in a poor state of repair. This may involve re-purposing the original building for an alternative use. The Corporate Working Group will assess the individual asset to see what type of organisation or use would be suitable for the building and location and what repair

works would need to be undertaken to facilitate such use. The options for re-use or re-purposing and the potential to let the building as a Community Asset will be presented to the Ward Councillors. Ward Councillors will approve the potential use and where the Community Letting Policy applies (i.e. the grant of a lease for 5 years or more) the Community Letting Procedure will apply, and the asset will be advertised to invite expressions of interest. The applicant will have an opportunity to apply to the advert. In some circumstance the re-purposing of an asset may require further approval under the Council Constitution.

- ☐ Occasionally, the Council may receive applications from third parties or community groups looking to develop a new asset on Council land. New community development on recreation grounds or other green open spaces will only be considered when it is appropriate to do so. If it can be demonstrated by the person/organisation making the application, in consultation with Councillors, that there is benefit to the wider community, the matter will be considered in more detail. All applications being progressed will be subject to a viability assessment and due diligence, as set out in Appendix 6 and taken to the Council's Corporate Policy and Resources Committee for determination. Ward Councillors will be notified of all expressions of interest.
- ☐ Occasionally there may be exceptional circumstances which Ward Councillors consider should take precedence over parts of this policy and procedure or there may be circumstances where a letting enquiry does not fit within the scope of the policy. If this is the case, the relevant officer(s) should consult with the Chair and Vice Chair of the Corporate Policy and Resources Committee for a decision. If exceptional circumstances apply then an Exceptional Circumstances Form should be completed and signed providing detailed reasons as to why the policy is not being followed.
- ☐ It should be noted that where an asset is located on the ward boundary, Ward Councillors of both wards impacted should be consulted.

6. Policy Ownership and Review

Asset Management will have overall ownership of the Community Lettings policy and procedures. All enquiries regarding the use or development of community assets received by officers or Elected Members will be referred to the Asset Management Team. This is to ensure the enquiry can be processed in line with this policy and procedure and will include cross service evaluation. It should be made clear by officers and Elected Members to all enquiries that community lettings are subject to the policy. Engagement with officers does not constitute consent under the policy. Officers from Community Wellbeing, Neighbourhood Services and any other relevant department will contribute to Stage 1 Assessment Scoring Forms as required. The Officer Panel that has responsibility for making recommendations will consist of the Group Heads for Community Wellbeing, Regeneration and Growth and the Property and Development Manager.

This policy is to be reviewed on an annual basis.

Community Lettings Procedure

This procedure sets out a framework for letting Community Assets. It outlines the stages of

the decision-making process plus the assessment criteria and processes at each stage.

STAGE 1 - Advertising available asset and initial application and assessment

The authority will only consider advertising an asset where:

- ☐ The Council owns a freehold or long leasehold interest in the property
- ☐ It has already undergone assessment for current benefit to community users and value for money using the adopted policy criteria
- ☐ It is not already identified in Councils strategies or service delivery plans for future external investment to enhance its current usage. The exception to this would be a proposal that includes the same activity as the current usage e.g., an application could be considered from a football club that wants to make use of a pavilion that has been highlighted for investment in the Councils Playing Pitch Strategy.

Stage 1 Procedure:

Stage 1a

Assets identified for potential Community Letting following the review of the Council's property portfolio will be advertised on the Council's website for a period of 1 month. An indication of the lease and rent terms the Council would be looking for will be posted as part of the advertisement. At the same time as the advert is placed on the website, Council officers will advise Elected Members by email as well as residents associations and any other community groups that the Council may be aware of. Community groups and organisations will be invited to express their interest in leasing the asset by completing a Stage 1 Further Information Form (for an example see Appendix 1). The Stage 1 Further Information Form will be available on the website along with the Scoring Matrix Form which they will be scored against (for an example see Appendix 2). This will ensure there is full transparency around the process which will be undertaken.

Asset Management will initially assess all Stage 1 enquiries using the 'Further information Form' and 'Stage 1 Scoring Matrix Form' (Appendix 1&2). See attached Flow Chart for further details (Appendix 3). Where necessary, Community Wellbeing, Neighbourhood Services or other departments will be asked to contribute to provide missing information.

As a result of this initial assessment officers will make recommendations for stage 1b.

There will be 3 key factors to be considered within stage 1 but the individual criteria which expressions of interest will be scored against may vary depending on the asset being advertised.

The Applicant, unless otherwise agreed by the Chairs of Corporate Policy and Resources Committee as part of the pre assessment process should be

- Appropriately constituted, for example, a registered charity, a community interest company or a charitable incorporated organisation, a not-for-profit company; a co-operative, sports club or CASC (Community Amateur Sports Club).
- Community-led, i.e. its governance arrangements must ensure that members of the community are able to influence its operation and decision making processes.

Stage 1 Criteria:

The three key factors to be considered within the Stage 1a Community Letting Policy/procedure criteria are:

- a. The current benefits to the local community provided by the organisation and/or asset versus those to be gained from new or increased access to the community asset.
- b. The alignment of any new usage proposal with the Council's strategic values and objectives.
- c. The impact of the current and/or proposed usage on the sustainability of the asset and service.

Stage 1 assessment of proposals via the Scoring Matrix Form will take into account these factors, considering both the likelihood and impact of failure.

Stage 1b

Those successful at Stage 1a will be assessed by the Corporate Working Group. This group will undertake a basic options appraisal to compare current and proposed usage facts and decide which applications should move to stage 2. Once this process has been completed Asset Management will advise those applicant(s) that have been successful in moving to Stage 2.

Stage 1 will be completed within 4 weeks of the closing date of the advert.

STAGE 2 - Consideration for Community Letting

Stage 2 Procedure:

Stage 2a:

Successful applicants from stage 1 are invited to submit a detailed business plan. The level of detail in the business case will be to a large extent determined by the size of the asset and the community offering being put forward (for example a community café in a disused toilet will require less than an organisation looking to take on a whole community hall). A health and safety questionnaire will also need to be completed where appropriate. These should be submitted by the applicants within 2 weeks of being advised they have advanced to stage 2 of the process. Where this deadline cannot be achieved the applicant should advise the Council why and how long this will take.

Stage 2b:

The business plans and health and safety questionnaires are reviewed by the Corporate Working Group and assessed for a second time. A full financial review will be undertaken by the Finance team.

This process will be completed in 4 weeks. If, as a result of additional requests for information or a large number of business case submissions, this 4-week turnaround cannot be achieved the Council will write and advise all applicants in writing of the date of the extended deadline by which that assessment will be complete

Stage 2 Criteria:

A successful Stage 2 full business case will need to evidence the following criteria:

Community Use

The proposed use of the asset is genuinely for the benefit of the local community and offers real potential for the development of a sustainable, successful, and independent community organisation.

The asset will benefit residents, including less advantaged groups and provide affordable membership costs.

Strategic Direction

The proposed use of an asset reflects the outcomes and objectives of the Council's Corporate Plan and Asset Management Plan.

Local Provision

The application demonstrates that there is supply and demand for the service and no surplus duplication within the local area.

Finance

The applicant provides a business plan that demonstrates:

- Value for money for the Council
- Security /sustainability of service to ensure continued utilisation and prevention of anti-social behaviour
- An ability to maintain and manage the building to a high standard and complying with all statutory regulations and other terms in the lease

STAGE 3 – Community Letting Recommendation

These assessments will be used to determine if there is a suitable applicant which the Corporate Working Group can recommend. If there is a suitable applicant, a report including the Stage 1 Scoring Matrix Form, the relevant business case, health and safety questionnaire and officer recommendation will be made to the Chair and Vice Chair of the Corporate Policy and Resources Committee providing the matter falls within the office of delegations under the Constitution. Where Committee authority is required under the Constitution, Council officers will submit a report to the Corporate Policy and Resources Committee for consideration.

The successful applicant will be notified in writing on the decision of the Council and liaison will then take place with the Assets and Legal teams on drawing up the necessary legal documentation including heads of terms. If the Community Asset is within a public open space, further advertising requirements will need to be observed to comply with public open space legislation before a letting is finalised.

ELECTED MEMBER INVOLVEMENT

Requests or approaches received by an Elected Member relating to any Community Asset will need to be referred directly to the Assets team as they need to have full sight of every potential opportunity that has come to the Council no matter by what route. It will then be for the Assets team to manage the process in accordance with the policy.

Where an Elected Member has had any personal involvement, this will be recorded on the stage 1 Scoring Matrix Form which will be considered by the Committee or Chairs and Vice Chairs as required at stage 3. Elected Members with such involvement will not be party to the final decision-making process.

REVIEW PROCESS

All those unsuccessful applicants who reached stage 2 will then be notified that they have not been successful. Any applicants not satisfied with the final decision will need to contact the Council and go through the Councils Corporate Complaints Procedure
<https://www.spelthorne.gov.uk/article/16560/Comments-compliments-and-complaints>

APPENDICES

Appendix 1: Stage 1 Further Information Form

Appendix 2: Stage 1 Scoring Matrix Form

Appendix 3: Flow Chart for the Community Letting Procedure

Appendix 4: Community Letting Flow Charts

Appendix 5: Community Letting Policy Tenant Scorecard

Appendix 6: New Community Development

