

# **Title of report: Community Asset Transfer of Hinton Community Centre to Hinton Community Association Ltd**

**Decision maker: Cabinet member commissioning, procurement and assets**

**Decision date: 31 July 2021**

**Report by: Senior Estate Manager**

## **Classification**

Open

## **Decision type**

Non-key

## **Wards affected**

Hinton & Hunderton

## **Purpose**

To approve the freehold transfer of Hinton Community Centre to Hinton Community Association Ltd (HCA) who currently occupy and run the centre.

The centre is currently held under a lease with less than fifteen years to run and HCA have applied to the council for the freehold of the property under the council's community asset transfer (CAT) process as the restrictions contained in the lease are hindering their ability to obtain sufficient funding to enhance the facility and expand the services it delivers to the local community.

## **Recommendation(s)**

**That:**

- a) the freehold transfer of Hinton Community Centre at nominal value be approved; and**
- b) delegated authority be given to the director for economy and place in consultation with the section 151 officer and the cabinet member for commissioning, procurement and assets to agree all heads of terms and all other operational decisions necessary to implement the above recommendations.**

## **Alternative options**

1. Do nothing: the community centre is currently held under a lease which terminates in 2034. The unexpired term of the lease and the obligations and restrictions it places on HCA are hindering their ability to obtain funding.
2. Extend the lease: under the lease the council is responsible for repairing the structure and exterior of the property and any changes or enhancements to the property that HCA wish to carry out require landlord's consent. Transferring the freehold; this will formally release the council from these obligations and give greater freedom to HCA to improve the building to meet their need.
3. New long lease on full repairing terms: this has been discussed, but HCA have expressed the desire that the freehold be transferred to them as this will enhance their access to sources of funding enable them to enhance the facilities and services delivered from the site for the benefit of the community they serve. They are a properly and well-resourced legal entity made well set up take on full responsibility for the property and enhance the community facilities that are already delivered on site.

## **Key considerations**

4. HCA occupy the premises under an existing lease which commenced on the 18 March 2016, has 13 years left to run and under which they pay a peppercorn rent and have responsibility for internal repairs. The lease is contracted out of the security provisions of the Landlord & Tenant Act 1954 which means HCA have no automatic right to a new lease
5. The building provides facilities that are suitable for a mixture of training, conferences, workshops, sporting and social activities from which are run a varied range of activities, projects and events. Included in these are the Hereford Pupil Referral Unit, the Probation Service, the NHS Sleep Apnoea Clinic, Job Club (helping people back into work), groups from the local Polish, Fijian, Ukrainian and Arabic communities, military community groups including the Gurkhas, the Police Cadets, the Family Contact Service, a nationally recognised Boxing Club and numerous other sporting and social activities for all ages and abilities. Prior to the outbreak of coronavirus the footfall through the centre had increased from approximately 300 per month to over 4,000 per month
6. HCA are a legally constituted non-profit making registered charity set up in 2003 so have a strong track record of serving their local community. The 9 volunteer trustees are from wide ranging sectors of the community and between them have significant experience in public, professional and sporting life with skills in fund raising, health and safety, legal matters, management and administration.
7. The primary focus of HCA is to support individuals within the community who are disadvantaged or vulnerable because of age, ethnicity, culture, health, ability or circumstance.

8. In line with the council's CAT policy HCA have submitted a reasoned business case and audited accounts demonstrating the social and community value they can deliver as a result of the transfer and that they have financial resource at their disposal to take on responsibility for the property
9. As required by the council's CAT policy professional market valuations of the premises have been obtained to establish both the restricted (current use i.e. as a community centre) and the un-restricted open market value of the property. Those valuations have confirmed that the difference between the two permits the transfer of this property at an undervalue as permitted by the General Disposal Consent 2003 where a transfer at an under-value by a local authority is likely to achieve the promotion or improvement of social-wellbeing.

### **Community impact**

10. The County Plan 2020-24 commits the council to helping local people connect with the variety of services provided by the voluntary sector and with their community, to strengthen communities to enable everyone to live well and safely together and to increase community resilience across the county.
11. The building already provides a wide range of facilities and services to the local community and the transfer of the freehold to HCA will give them long term security and the ability to plan and obtain funding to enhance their delivery of these vital public services in partnership with the council and other public bodies including NHS, Police and Probation Services in Hereford.

### **Environmental Impact**

12. The County Plan 2020-24 recognises the importance of protecting and enhancing the environment with the aim of ensuring Herefordshire is a great place to live and commits to working in partnership with others to reduce county carbon emissions.
13. HCA are undertaking the installation of Light Emitting Diode (LED) lighting throughout the building and plan to replace the traditional heating system with a new solar powered system with the aim of reducing both their running costs and their eco footprint.

### **Equality duty**

14. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

15. The objective of supporting individuals within the community who are disadvantaged or vulnerable because of age, ethnicity, culture, health, ability or circumstance is the primary aim of HCA and they demonstrate this by the sheer breadth of the groups who are welcomed into the building and referred to above.
16. This local area south of the river Wye is recognised in the Indices of Multiple Deprivation as being within the top 10% of most deprived areas of Herefordshire and England with a shortage of facilities for vulnerable and disadvantaged individuals

### **Resource implications**

17. The property is already subject to a lease at a peppercorn rent so the transfer will have no impact on existing rental budgets.
18. The current lease places the responsibility for maintenance and repair of the structure on the council. There has been limited expenditure in the last few years as HCA have obtained external funding to undertake some of these obligations as part of the working relationship that the two parties have established
19. A condition survey carried out on behalf of the council in 2019 and identified total expenditure over the next 4 years of approximately £84,000. If the transfer does not proceed that would be an obligation placed on the council.

### **Legal implications**

20. A Local Authority cannot dispose of its land for less than the best consideration reasonably obtainable in the market, except with the express consent of the Secretary of State (section 123(1), Local Government Act 1972 (LGA 1972)) or unless certain criteria are satisfied in accordance with the General Disposal Consent (England) 2003). This enables a disposal at an under value if the disposal will secure the promotion or improvement of the economic, social or environmental wellbeing of the area. In addition the disposal must not be for more than £2,000,000 below the unrestricted value of the land.
21. The Report confirms that the intended disposals falls within the General Consent requirements.
22. Whilst HCA are seeking a freehold transfer as they feel restrictions in their lease are hindering their ability to raise funding, in order to seek to ensure that community use is maintained as far as possible following the transfer, it will be necessary to impose covenants in the transfer documentation and a restriction placed on the title to prevent sale for an alternative use. The transfer will include the use of overage provisions or an option for a return transfer in the event that the property ceases to be used for a given time or used for community benefit. The transfer will include all existing rights or restrictions and an indemnity from the transferee to protect against any breach of any matter to which the property is subject.

23. The council's legal team will deal with the preparation of the transfer documentation and the transfer of title.

## Risk management

24. The proposed transfer of the property poses risks and opportunities as set out in the table below:

Risk / opportunity	Mitigation
Loss of an asset that may have the potential to realise rental income or a capital receipt in the future	Community asset transfer is part of the council's policy approach to ensuring stronger sustainable communities.
HCA may fail/seek to dispose of the asset in the future.	Legal Services will deal with the transfer and ensure that it contains provision for the return of the property to the council at nil consideration and/or a legal charge in favour of the council is placed on the property
The provision of enhanced community services by the voluntary sector (opportunity)	Reduces pressure on the council's budgets in providing front line services to families, adults and children (benefit) and enhances the reputation of the council through supporting and working with voluntary groups

25. These risks will be managed by property services working with legal services in accordance with the council's risk management process.

## Consultees

26. Comments from the ward member have been sought and he has confirmed that he is wholly supportive of the proposed transfer

## Appendices

None

## Background papers

None identified

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

HCA – Hinton Community Association Ltd  
CAT – Community Asset Transfer  
LED lighting - Light Emitting Diode lighting