

Watford Borough Council

Community Lettings Policy 2023

DRAFT

1. Introduction

The council's community asset portfolio comprises some 47 assets, all of which are located within the borough of Watford. The assets are very varied including public recreation grounds, play parks, allotments, open spaces, bowling greens, leisure centres, community halls, nurseries, office accommodation, day centres, and park buildings (pavilions and changing rooms). Our approach to how we strategically manage our community assets is set out in our Community Asset Strategy 2023.

The Community Asset Strategy (the overarching overview of the process) is a high-level document which will outline the approach that will be taken by the council in the use of its Community Assets. It identifies and implements a comprehensive review of the community asset portfolio by outlining which properties will.

- Be available for lease on a commercial basis.
- Be available for lease on a community use basis.
- Be available for lease to the Voluntary Sector on a commissioned basis.

What is a community asset?

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 Policy is to be applied. This Community Letting Policy sets out the leasing process for all new lettings of community assets.

Our portfolio of community assets are held to:

- support direct service delivery.
- support delivery by partners including the voluntary and community sector.

- stimulate economic activity and regeneration and support the council's budgets.
- provide green spaces / parks for public health, wellbeing, and recreational benefits.
- provide centres for community meetings and other community led activities.

The council has a financial duty to act as an appropriate custodian (in the interests of good estate management) of community assets that it owns/leases in whilst supporting and enabling third sector development through community use agreements/leases.

2. **Purpose of the policy**

The purpose of the Community Lettings Policy is to establish a transparent and positive framework setting out our objectives for long-term community asset usage. This policy will robustly evaluate proposed community use arrangements through the implementation of an equitable and auditable process. The process will:

- source information across services to respond to queries from organisations in a timely manner.
- ensure that the Elected Mayor, members and officers understand how the evaluation of community asset usage can benefit both the council and local community.
- agree any discounts from a full market rent by way of an annual grant to applicants in return for a Service Level Agreement (SLA) for directly commissioned services or a Community Use Agreement (CUA) for community services not directly commissioned by the council.
- through use of this procedure, we are ensuring that the assets are deployed to maximise the benefit to residents.

3. **Objectives**

The objectives of this policy are to:

- ensure a transparent, equitable process for the assessment of the use of community assets and their future use by the council or third parties.
- maximise the benefit of council owned assets for the community .
- maximise the utilisation of community assets through shared usage and sub-letting/hire arrangements.
- secure appropriate rental payments (taking account of the community groups financial status) for the council to support the ongoing maintenance of the assets.

- ensure appropriate compliance, repairing and maintenance responsibilities (in any lease granted) through consideration of the financial status and capability of the prospective tenant to undertake the same.
- ensure appropriate inspections are diarised to ensure both the obligations in the lease and any CUA or SLA are being adhered to
- provide a stimulus for partnership working
- uphold the council's reputation

4. **Local policy context**

We assess the benefits of current/potential use versus proposed alternative community use and that method is strategically linked to our Council Plan 2022-26 themes:

1. A council working for our community and serving our residents.
2. A greener brighter future.
3. An inspiring, thriving, and creative town.
4. A happy and health town

An effective and transparent Community Letting Policy contributes to all these themes, linking aspirations for the environment with more sustainable ways of working, to the town's prosperity and supporting our community networks.

Within our Delivery Plan 2022-24, which underpins the Council Plan, we have committed to:

- listen to and hear the diverse voices of Watford:
- engage with our community to better support outcomes for our town and residents: Developing our strategic approach, which will set out how we will proactively work and engage with our community and our voluntary and community partners.
- listen to the diverse voices of Watford: Ensuring that our community buildings benefit residents and by working with our community tenants seek to make sure that the buildings are well maintained, meeting statutory and regulatory requirements in full and maximise benefits for local people.

The Community Lettings Policy will also seek to deliver other strategic plans including.

- Community Engagement and Participation Strategy 2023-26
- Environmental Strategy (addressing the Climate and Ecological Emergencies 2023-30)
- Voluntary and Community Sector Framework with specific organisations being commissioned to deliver services, a number of which are based in community assets.

5. Principles of the Community Lettings Policy

The policy is underpinned by the following principles:

- any proposed community letting must support the aims and priorities of the council as set out in our strategic framework e.g., Council Plan 2022-26, Community Asset Strategy 2023.
- any community asset use criteria and procedure must support the council's strategic objectives.
- the council has a dual role as a supporter of the third sector but also as a steward of publicly owned assets.
- when agreeing a letting, relevant services will contribute their views into the decision-making process, and members will have an input through the Community Facilities Review Board (CFRB)
- ancillary commercial functions may also be appropriate to lessen the financial burden of the lease on the community tenants or the council.

Monitoring

This policy will be monitored by CFRB, led by the Asset Management team, in close liaison with the Community team.

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

Where this policy applies

- this policy applies to the grant of a lease or sublease (the grant of a legal interest in land which gives exclusive possession for a fixed period), a licence, or any tenancy at will arrangements over council owned property.
- this policy will also apply to lease renewals or where we have a vacant property which, whilst surplus to council requirements, is capable of beneficial use by a community group or organisation and following an evaluation not deemed permanently surplus and suitable for disposal.
- at lease expiry, if a current tenant is seeking to renew, the Asset Management team will review the conduct of the tenant during the lease term. They will seek input from the Community team. The tenant's conduct will be evaluated considering the following factors: rent payment history, compliance with lease terms, community use occupancy levels, and compliance with any SLA or CUA attached to their existing lease. The Asset Management team will then make a recommendation to CFRB or, depending on the findings of the review, seek CFRB input into findings before a recommendation is made.

- if an existing tenant applies to take a lease of additional space within the same building or within the curtilage of the asset that they already occupy, then a report of the tenant's conduct using the criteria outlined above will similarly be reviewed by CFRB before a decision is made.
- additionally, an existing tenant may apply to conduct works to extend the building that they occupy, which will require the grant of a supplemental lease. The grant of the supplemental lease or a renewal under the provisions of s24 to 28 of the Landlord and Tenant Act will not require the opportunity to be openly advertised under the Community Letting Policy.
- Prior to applying the Community Letting Policy each individual asset will be looked at to identify what type of group or organisation would be suitable for the property (e.g., a closed toilet block might be suitable for a business, or a community use and this will be determined prior to advertising). Ward councillors will be advised 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 CFRB to decide on the most appropriate use of the asset, reflecting the age and condition of the asset and the backlog/lifetime maintenance required to maintain its current use. If it is agreed the property should remain in community use, officers will proceed with the Community Letting Policy procedure to identify a suitable tenant.

6. Exclusions

This policy shall only apply to community assets. Specifically excluded are.

- commercial property held for investment purposes.
- operational property used for directly delivered council services (other than the proposed Town Hall Community space).
- vacant property held for redevelopment purposes and deemed permanently surplus.
- garages and parking spaces
- housing – hostels and temporary accommodation
- allotments - whilst listed as community assets, are subject to a separate policy.

7. 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, the Mayor or 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. The Asset Management Team will then in consultation with the Mayor and

members make a recommendation to CFRB as to the suitability of the proposal in principle after processing and scoring the application.

- officers and members should advise any applicants that community lettings are subject to this policy, and that engagement with officers does not constitute consent under the policy.
- officers from Asset Management and Environment Services and any other relevant service, will contribute to Stage 1 Assessment Scoring Forms as required.

The Associate Director of Property and Asset Management has delegated responsibility for lettings and making recommendations as to which applicants are invited to stage 2. The officer panel will consist of: the Community Asset Manager, Associate Director of Property and Asset Management, Associate Director Environment, Director of Performance and other relevant officers where required e.g., Arts Development/Sports and Physical Activity.

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 council will only consider advertising an asset where:

- we own a freehold or leasehold interest.
- the asset has already undergone an assessment for the current benefit to community users and value for money for retaining asset as a community asset, using the adopted policy criteria.
- it is not already identified in the council's strategies or service delivery plans for future 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 cricket club that wants to make use of a pavilion that has been highlighted for investment.

Stage 1 Procedure:

Assets identified for potential Community Letting, following the review of our community asset portfolio, will be advertised on the council's website for a period of [6 weeks] and/or marketed by appointed letting agents. This advertising will include a summary of the evaluation process and the need for a detailed business plan for those who get through the initial stage. An indication of the lease and rent terms the council would be looking for will also be indicated as part of the advertisement. At the same time as the advert is placed on the website, officers will advise ward members by email as well as resident associations and any other community groups that the council may be aware of with an interest in the property. 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 being undertaken.

Asset Management and the Community officers will initially assess all Stage 1 enquiries using the Further Information and Scoring Matrix forms.

As a result of this initial assessment officers will make recommendations for the next stage in the letting process.

There will be several 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.

Any applicant 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) capable of demonstrating good governance through open and accountable processes having adequate monitoring, evaluation and financial management systems and are financially robust to meet rent and other outgoings.
- community-led, its governance arrangements must ensure that members of the community are able to influence its operation and decision-making processes.
- able to demonstrate suitable values in that they will embrace the council's priorities and a commitment to, equality, diversity, and inclusion.
- willing to offer space (by sublet or hire arrangements) to other groups or organisations where they are not able to demonstrate full use of the property.
- able to demonstrate the group or organisation can (but not limited to) contribute towards the council's priorities, regional and national governing bodies where relevant, and is willing to commit to reporting arrangements required by the council to receive rent reductions and/or grants.

Stage 1 Criteria:

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

- a. the current benefits to the local community provided by the group or 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 the wider service.

Stage 1 assessment of proposals via the Scoring Matrix form will assess these factors and consider both the likelihood and impact of failure.

Next stage

CFRB will be notified of those successful at the initial stage who will move forward to the next stage. This Board will review a basic options appraisal and recommendation provided by Asset Management to compare current and proposed usage. Once this process has been completed Asset Management will advise those applicant(s) that have been successful in moving to Stage 2, together with advising the unsuccessful Stage 1 applicants.

Marketing and advertising

The property will be marketed and advertised for a period of 6 weeks following which Stage 1 should be completed within [4 weeks] of the advertising closing date.

STAGE 2 - Consideration for Community Letting

Successful applicants from Stage 1 will be invited to submit a detailed business plan. The level of detail in the business case will be determined by the size of the asset and the community offering being put forward (for example a community café in a redundant toilet block will require less financial scrutiny than an organisation looking to take on an entire community hall). These should be submitted by the applicants within [4 weeks] of being advised they have advanced to Stage 2. Where this deadline cannot be met the applicant should provide evidence as to why this is not achievable.

The business plans will be reviewed by officers and reported to CFRB and assessed for a second time together with a full financial review by the Finance team.

This process should be completed in [4 weeks] of receipt of the requested documents. If, because of additional requests for information or many business case submissions, this 4-week turnaround cannot be achieved, we will advise all applicants in writing of the date of the extended deadline by which assessments will be completed.

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 Plan and the proposed Community Asset Management Plan.

Local Provision

The application demonstrates there is demand for the service and no duplication within the local area that would be to the detriment of another community organisation tenant of the council providing a similar service.

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 and complying with all statutory regulations and other terms in the proposed lease.

STAGE 3 – Community Letting Recommendation

These assessments will be used to determine if there is a suitable applicant. If there is a suitable applicant, and the proposed letting is under seven years then the council may agree to terms either at or below market rental value to comply with s123 requirements. Should a decision be taken to proceed based on terms longer than seven years, such a letting would be considered a disposal in accordance with S123 of the Local Government Act 1972 and the rent must be at open market rental value or if less than best consideration was secured, appropriate Cabinet (or Secretary of State if applicable) approval would be sought.

The successful applicant will be notified in writing of the council's decision and liaison will then take place with the Environment Service, Asset Management and Legal teams on drawing up the necessary legal documentation, including heads of terms and terms of any Community Use Agreement or Service Level Agreement. 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 Mayor and member involvement

Requests or approaches received by the Elected Mayor or member relating to the use of any community asset will need to be referred directly to the Asset Management team as they require full sight of every request received by the Council. The Asset Management team will then manage the process in accordance with this policy.

Where a member has had any direct personal involvement with the applicant, this will be recorded on the stage 1 Scoring Matrix Form. Members with such an involvement that would constitute a conflict of interest will not be party to the final decision-making process. They should declare such a conflict exists.

All those unsuccessful applicants who reached Stage 2 will then be notified that they have not been successful once a final decision has been made. There is no appeal against the final decision.

Rent discounts

The process for full market rent discounts (delivered by way of a grant to be annually reviewed and verified against the agreed SLA or CUA by the Community team) will be based upon the following assessment.

Factors to be considered in any discount process include.

- if it is a full repairing and insuring (FRI) lease or whether the council retains some repairing responsibility
- the capability of a group or organisation to maintain the premises.
- the ability of the organisation to pay a rent (and maintain the premises if relevant).
- consideration of the capital investment by the group or organisation, or its funders and funder requirements, to derive future funding for an investment in a community asset. For example, rent has been foregone in lieu of capital investment by the tenant as that is deemed better value for the council.

- the business plan for the group or organisation and their ability to raise income.
- the type of service or need they are addressing, whether they have access to funding opportunities or the profile of who they are supporting in the community

Once these factors have been considered it is proposed that:

- directly commissioned services for which a cost saving to the council is made, a proportion of these savings may be deducted from the market rent by way of an annual grant.
- community services which provide a unique or localised facilities as identified in their CUA may have a rent reduction again by way of an annually reviewed and verified grant.
- sports facilities will not generally receive any rent reduction; however, exceptions may be made in appropriate circumstances.

All community asset lettings will also include the following provisions in their SLA or CUA.

1. The facility should be open to all residents and specifically include equal opportunity and equality principles in their constitution and operating procedures.
2. Faith based organisations exclusively serving that faith will not be included in any letting.

APPENDICES

Appendix 1: Further Information form

Appendix 2: Sample Scoring Matrix form

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