

Subsidy Control Act 2023 Minimal Financial Assistance (MFA)

Principles Assessment

Step 1

Policy objective (Principle A) Requirements

Identify and describe the existence and significance of the market failure or the inequality (or both) that is causing a problem.

Identify and explain what you are trying to achieve in relation to that market failure or inequality (the policy objective).

1. GBC Community Asset Transfer Policy objective

The GBC Community Asset Transfer Policy sets out a framework for the Council to follow when it considers the transfer of its buildings or land to different forms of community ownership. It will ensure the Council can work in a consistent manner when embarking on community asset transfer.

The purpose of the Policy is to enable the Council to assess applications for community asset transfer against clear criteria that ensures any transfer meets Council objectives and is in the best interests of the community.

2. National and Local Context

The Quirk Review in 2007 'Making Assets Work – Community Management and Ownership of Public Assets', recommended that community asset transfer can work if both its risks and benefits are made clear. It also highlighted the transfer process itself can offer greater access to funding and greater use of community facilities.

The Localism Act in 2011 directed a shift in power from government to communities, individuals and Councils. The Act's aim of keeping community assets in public use provides an opportunity for local groups, organisations or parishes to nominate 'assets of community value' to be included on a list managed by the local authority. The objective being communities are greater informed of the opportunities for managing or owning public assets and are given the appropriate time to prepare any bids for ownership.

There is a growing trend that community asset transfer is now happening in response to the requirement of local government to reduce its budgets. The pace of reducing budgets can place additional challenge for managing the transfer of assets to voluntary organisations.

Gedling Borough Council has a record of transferring the management of certain facilities over to the community. This has included licensing playing fields and

pavilions to local community sports clubs and leasing community centres and other space to community organisations and associations.

Previously there has been no clear policy for the Council to follow when undertaking this transfer, so licences and leases have often been negotiated and agreed in a reactive and ad-hoc manner. The Council Plan highlights the theme of “Place” as being key to meeting the Borough Council’s vision of Gedling being “the best place to live and work and the best Council around.” The objective to promote and encourage pride and participation in the local area sits within this theme.

By providing an opportunity for local communities to participate through the management and ownership of community assets the Council can further meet this objective. This might also enable budget efficiencies for the Council.

Aim of the Policy

- To identify the process and tools that will enable the successful delivery of a future asset transfer programme.
- To recognise the capacity needs of local groups wishing to take on local authority assets.
- To ensure a thorough risk assessment of asset transfer is undertaken.
- To define the legal form a transfer agreement would take.

3. Proposal for achievement in relation to the market failure

In considering the proposal to transfer Wollaton Avenue Community Centre to Gedling Play Forum by way of a 99 year, full repairing lease at peppercorn rent, the aim is to enable the group to access large scale capital and revenue grants to improve and maintain the building, maximise environmental sustainability of its footprint and increase capacity for long term craft, play and scrap store services to vulnerable local families, VCS Groups, individuals, schools and other family support organisations from the asset.

The organisation currently holds a short term, rolling full repairing lease that significantly limits their access to development grants and subsequent capacity for service growth. Large scale funding bodies require long term full repairing leases in place when considering awards for capital development of facilities.

Gedling Play Forum Business Plan

Extract: Market Analysis

As part of the Gedling Play Forum’s Community Asset Submission, a Business Case has been presented by the organisation that identifies the following operating environment:

'The Gedling Play Forum is operating in a challenging environment. In the last 6 months another two of the county's Play Forums have closed. We have been able to incorporate a large proportion of the stock and equipment from Broxtowe Play Forum, which has put us in a position of adding the hire of play equipment to our income streams. These closures are a sobering reminder of the challenges we face, but they are also a rallying call and inspiration for GPF to continue, determined to serve the needs of communities in Gedling Borough to access play.

Challenges facing small charities like us are multifaceted, not just financial but also resources such as suppliers, volunteers, staff and an appropriate building. These are just some of the underlying factors we have noted in the closure of other play forums.

Pressures on council funding has meant that services have necessarily been cut back. This has reduced core grants and increased the competition for the funds available. GPF was successful in securing a 4-year grant from the County LCF in 2022, this will go toward our core costs.

Despite this we are looking forward to a more positive and sustainable future. We have improved our efficiency in terms of running costs and seen a year-on-year increase in our membership. With the closure of county-based play worker banks and Play Forums, we have opportunities to deliver services across a wider area, bringing a potential new income stream. If granted, a new SLA with GBC would ensure the delivery of play opportunities across the Borough meaning that new income streams can be directed to general funds.'

Extract: Rationale for Community Asset Transfer Submission

'We have applied for a new longer lease, if given this will enable us to apply for grants to improve our building and saving further on running costs. We have had quotes and structural surveys for the much-needed improvements that will make our building greener, smarter and far cheaper to run.

In the past 5 years GPF has had to reduce some of its offer in order to focus on core services: delivering play activities, running a craft shop and scrap store. This has enabled us to widen our membership offer to more groups and families. We recognise that our membership base is changing and now covers a much wider age range: a real cradle to grave spread now.

As we have come out of the restrictions brought in during the pandemic, we have recognised the changing market conditions. Where we have previously had to stop training and support activities the need for these to be reintroduced is evident. At present we are overly reliant on a core team of volunteers and our two part-time staff members. We need to build our volunteer base and look to invest in additional staff to strengthen our resilience. We also need to re-evaluate how we deliver our core offer; training offers a sustainable way forward here.

In the current market conditions, we need to remain adaptable so that we can respond quickly: just like we did during the pandemic. When lockdowns meant we couldn't deliver play events we developed "play days in a bag".

We need to be realistic. Our ultimate beneficiaries – the children and young people – and the organisations that we serve will not be able to pay for our services at sufficient rates to cover the full costs of GPF. Subsidy through grants and donations is essential. It is extremely unlikely that any statutory funder will have the means to significantly increase their funding. Over reliance on short term grant funding from other sources, is also no more than a short-term fix and has been the downfall of other scrap stores.

In the long term, there must be a sustainable mix of public subsidy, fee income from events and services provided, and shorter-term fundraising of grants and donations, all matched by controlled and carefully managed expenditure. Whilst our current mix of trustees, committee members and staff have the experience to carefully monitor and grow our finances and services at a sustainable level, we can strengthen the skill-set by bringing on board Trustees with fundraising and marketing skills in particular.'

Extract: Building

'We have applied for a new longer lease (99years) from GBC, if given this will enable us to apply for grants to improve our building and save on running costs. We will need to update quotes and structural surveys for the much-needed improvements that will make our building greener, smarter and cheaper to run. Discussions with potential funders show that acquiring funding for these further improvements are possible. We have experience in obtaining funding for improvements. Since receiving our first lease on Wollaton Avenue Community Centre we have successfully obtained grants from various sources to replace single glazed windows and doors with energy efficient double glazed, replace worn out storage heaters with modern cost-effective units, replace some of the flooring, outdoor improvements include replacing and adding lights with cost effective led units, a ramp and wildflower beds. More improvements are urgently needed, some will save running costs, one project idea (working with local residents and groups) will improve the outside space/s and local play opportunities.

The main space/room is taken up with the scrap store, with a modest amount of seating/table space at the back of the hall. In addition, there is an area used as a craft shop, office, kitchen, toilets and a reception. We have recently reorganised the craft shop and scrap store to improve the 'shopping experience' for members.

Despite the facility being relatively modern (1987) it is not well insulated, and the open plan table space does not make the space warm in cooler weather. As a result, it is not a warm or attractive space to do training or activities for much of year, although the recent addition of two infrared heaters above this area has vastly

improved the environment. If it is decided to start delivering training opportunities, there will need to be further investment in energy insulation products and probably a reconfiguration of the space to provide a contained classroom space; or training is delivered off-site at additional cost.

In terms of income generated and demand for products there could be a rationalisation of the scrap store space to allow more flexible space to be created which would meet future income needs. However, we are mindful that with other local scrap stores closing the demand for scrap store membership is increasing. We offer a unique service to local organisations and families. Scrap stores are space hungry, leaving no real hireable space within the main room. We have reconfigured the office to create a small meeting/training area which could be hired out; we would need to add keypad locks to the doors leading into the scrap store if this option was taken.

There could be opportunities to sublet space to other charities or organisations, subject to the asset transfer agreement conditions. In addition, there is easy potential to ensure the scrap store and shop are secure when Play Forum are not using the space. Initial search suggests that 3 desks and parking spaces could generate £6-7k pa not including utilities.'

4. Community Asset Transfer Policy: Assessment of CAT Submission

In accordance with the Council's Community Asset Transfer Policy, over the preceding year a team of Council officers from Property, Finance, Legal and Communities Teams conducted a 'viability for transfer' assessment of the building and a comprehensive assessment of the proposal. The business case and evidence provided by Gedling Play Forum has been accepted and the proposal for Community asset Transfer to that organisation is recommended.

It is deemed that the market failure in this case fits under:

4.1 Market Inequalities

Gedling Play Forum is potentially the only remaining VCS Family Craft, Play and Scrap store in existence in the County of Nottinghamshire. The service is in high demand and producing demonstrable benefit to vulnerable cohorts, and is utilised by essential health and other public sector partners to enhance services, however its position in the market is challenged due to years of austerity impacting the Public and Voluntary sector.

4.2 Appropriateness: Consideration of alternatives to subsidy

Regulation (compelling economic actors or others to take action to remedy the market failure or inequality)

Statutory Children and Families Service offers do not extend to the provision of neighbourhood-based family activity resource centres. Nottinghamshire County Council Childrens Centres in Gedling are all member organisations of and working in partnership with Gedling Play Forum to complement the statutory support offer in the Borough.

Evidence of the cessation of wider family craft, play and scrap store provision strongly indicates an economic inequality that would be addressed by the Community Asset Transfer proposal in this case.

4.3 Direct provision of the good or service by the public authority (you)

Gedling Borough Council does not have the statutory responsibility, capacity, skills nor financial resources to deliver the service directly, alternatively making an annual Grant Award of £5,000 to Gedling Play Forum to deliver play and craft activities as part of the Council's Annual Events Programme.

4.4 The public authority (you) offering a loan or equity investment on commercial terms

Gedling BC does not have the resources to provide a loan or equity investment to enable Gedling Play Forum to purchase the facility at market value.

Other alternatives such as Charity Banks require greater collateral as surety to facilitate a loan or mortgage than is held by Gedling Play Forum at the present time.

Recent example: A Community Hub in the Borough recently secured a mortgage from a Charity Bank to purchase a building adjacent to their own, for the purpose of extending and relocating their Youth Facility and develop Children and Families services.

In this case, the organisation, a Charity and Company Ltd by Guarantee, had fundraised, purchased the site for their current facility, built, owned and delivered services from a fit for purpose, multifunctional facility for over 20 years, with concomitant income streams, reserves and capacity for sub - letting.

Gedling Play Forum, whilst providing a range of beneficial services and enjoying a range of service partnerships, high membership levels and increasing demand, would present a higher risk to a Charity Bank and cost of any mortgage would be out of reach for Gedling Play Forum at this juncture.

Step 2

Baseline no-subsidy scenario (principles C and D)

Requirements: Describe how the situation you are trying to remedy (the market failure or inequality) is likely to evolve if you do not intervene, both over the short and longer term.

In assessing the proposal for Community Asset Transfer of Wollaton Avenue Community Centre to Gedling Play Forum, the Council has considered alternatives, including the option of no subsidy.

5. Alternative Options

An alternative option is not to agree to the transfer of the Community Centre and maintain the current arrangements. However, Gedling play Forum have been managing the site through a full repairing and maintenance lease for 20 years. This proposal seeks to maintain that principle but offer the organisation greater security of tenure with a long-term lease.

This will enable the Play Forum as a registered charity to access external funding opportunities for building improvements that usually require a minimum lease duration of seven years as an eligibility criteria.

This proposal therefore offers added value and potential for innovation and growth of services to the community, particularly as local authorities are not eligible for many external funding opportunities, that are however available to VCS organisations.

A further alternative is to consider the site for disposal.

Wollaton Avenue Community Centre is in a prime location in an area of substantial community need. Retention of the centres' use as a community hub and creative resource for children, schools and wider family support organisations supports Council aims to develop and address the health, wellbeing and community resilience of that area.

Another option would be to effect community asset transfer of the Wollaton Avenue Community Centre by freehold transfer, under different lease arrangements, or by the Council entering into a licence with the organisation.

This option would potentially restrict the ability of the new management organisation to access grant funding and to pursue other opportunities for sustainability and growth.

5.1 Requirements

Based on the evidence provided, without the transfer, there is a continued likelihood of resilience issues for the Gedling Play Forum and over dependence on short term Council grants, with no guarantee of sustainability, and ultimately a risk over time of significant reduction or closure of the service.

The Council has therefore concluded that there are no appropriate alternatives to subsidy that would allow the Council to meet its Community Asset Transfer Policy objective.

Step 3

Proportionality and minimising distortion (principles B and F) Requirements.

Consider and record how you will give the beneficiary (or each beneficiary of a scheme) the right amount of subsidy to achieve your policy objective and to minimise the risks of excessive distortions of competition.

Use eligibility criteria or design features to help achieve this.

6. Proposal to offer Community Asset Transfer of Wollaton Avenue Community Centre to Gedling Play Forum in the form of a Subsidy

6.1 The nature of the instrument

In accordance with the Community Asset Transfer Policy, consideration has been given to the appropriate rental value of the lease. Section 123 of the Local Government Act 1972 gives the Council the power to dispose of land in a manner it wishes but stipulates it may not do so for a consideration less than best that can be reasonably obtained. The General Disposal Consent (England) 2003 enables the Council to dispose of land at less than best consideration that can reasonably be obtained in certain circumstances.

6.2 Size of the subsidy

The proposed Community Asset Transfer of Wollaton Avenue Community Centre has been assessed in accordance with the Subsidy Control Act 2022. Gedling Play Forum are to receive a subsidy of £891,000.00 which has been calculated by the calculating of the annual rent of £9,000.00 multiplied by the term of the lease which is 99 years.

6.3 Timespan over which the subsidy is given

The successful Community Asset Transfer will be subject to a negotiation process and the agreement of a new, 99-year lease, setting out the rights and responsibilities of the Council and those of the Gedling Play Forum.

6.4 Nature of the costs covered

Subject to lease negotiation and the establishment of an agreed Transition Plan, a peppercorn rent will be agreed for Wollaton Avenue Community Centre following assessment of Gedling Play Forum's business plan.

6.5 Performance criteria

The plan sets out the intention to provide:

- a creative resource centre and scrapstore;
- family play activities at community events;
- activities and workshops for organisations;

- Group support: including access to the scrap-store and office services, drop in area and general support, signposting groups and individuals to further help and support.
- volunteering opportunities
- a meeting space for partnership meetings and groups in need

It is therefore deemed the following circumstances apply in accordance with the General Disposal Consent (England) 2003:

- The asset transfer will contribute to the promotion and improvement of economic and social well-being of residents within the wider local area.

6.6 Monitoring and evaluation

The new lease agreement will include monitoring and evaluation requirements in accordance with the organisation's plans to maintain and improve the asset, and to grow services for the socio-economic benefit of the local area and wider beneficiaries across Gedling Borough.

This is further supported by the Council's Annual Grant Agreement with Gedling Play Forum for the delivery of family craft and play activities at the Council's events, and also at community enabled events, delivered annually across Gedling Borough.

Step 4

Balancing test (principle G) Requirements

Consider and record the anticipated negative effects of the subsidy, including in particular any negative effects on competition and investment within the UK, and international trade and investment.

7. Balancing Test

7.1 Assessment of negative effects

As evidenced in the Market Analysis at Step 1, Gedling Play Forum is now one of the only facilities now providing affordable, developmental family craft and play services in the County of Nottinghamshire, and the closure of others has been symptomatic of a market inequality which we aim to mitigate in this proposal. Many of the play organisations that have ceased have willingly donated their play resources to Gedling Play Forum to sustain family craft and play services.

There is no evidence that implementation of the proposed subsidy will negatively impact market competitors, nor beneficiaries, however due attention must be given to the ongoing sustainability of the Gedling Play Forum in a market where many other Play organisations have ceased to operate, and demand exceeds supply across Nottinghamshire.

Compare these anticipated harms against the expected benefits of the subsidy (as they relate to the specified public policy objective). Do the anticipated benefits of the subsidy outweigh the negative effects?

7.2 Assessment of mitigating/positive effects

In considering this subsidy to the Gedling Play Forum, the assessment team reviewed the growth plans of the organisation and noted that considerable restructure, reorganisation, **S**trength, **W**eakness, **O**pportunities and **T**hreats and cost/benefit analysis had been undertaken. Gedling Play Forum had approached experts and maximised resources provided via the Council's Community Asset Transfer programme 2015 – 18 to and their business plan demonstrates agility and clear focus, specifically:

- the intention to utilise partnership approaches
- recent reconfiguring of the scrap store to increase footfall, accessibility and income
- establishing resilience and expertise within the management team
- researching and exploring large scale External Funding opportunities
- developing a 5 - year financial maintenance plan for the facility.

It was agreed that, with the implementation of a robust Transition Plan and ongoing monitoring and evaluation, the anticipated benefits of the subsidy outweigh any risk of negative impacts.