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**REPORT TO: CORPORATE COMMITTEE ON 11 JUNE 2024**

**SUBJECT: INFORMATION REPORT: COMMUNITY ASSET TRANSFERS ANNUAL REPORT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)**

**1. REASON FOR REPORT**

- 1.1 This report meets the reporting requirements of section 95 of the Community Empowerment (Scotland) Act 2015 in relation to asset transfer requests.
- 1.2 This report is submitted to Committee in terms of Section III (B) (32) of the Council's Scheme of Administration relating to the consideration of Community Asset Transfer (CAT) requests.

**2. BACKGROUND**

- 2.1 The CAT Scheme is concerned with the transfer of Council-held land and buildings to community-controlled bodies. Moray Council has a long history of transferring assets to the community through transferring ownership, granting leases and entering into management agreements.
- 2.2 Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act) gives eligible community-controlled bodies a right to make asset transfer requests to public authorities. The Act requires those authorities to assess requests transparently against a specified list of criteria, and to agree the request unless there are reasonable grounds for refusal.
- 2.3 Section 95 of the Act requires each authority to publish an asset transfer report by the end of June each year. This report covers the period 1 April 2023 to 31 March 2024. There is no legal requirement that all asset transfer requests be made under the Act. However, in the interests of transparency and completeness, details of those requests received outwith the Act are also included in the annual report, which is attached as **Appendix 1**.
- 2.4 The legislation requires the report to cover two areas of activity. The first relates to asset transfer requests and decisions made in respect of these. The second relates to actions taken by the Council to promote the use of asset transfer requests and to support community transfer bodies in the making of such requests.

- 2.5 During the period 1 April 2023 to 31 March 2024, the Council transferred one property to the community and at the end of the reporting period was in the process of transferring two more. A decision relating to one further request was deferred while an alternative site was investigated. No validated asset transfer requests were awaiting a decision as of 31 March 2024 and no decisions were the subject of a review or appeal during the year.
- 2.6 In addition to the four asset transfer requests referred to above, officers dealt with fifteen formal Expressions of Interest (EOIs) during the reporting period, twelve of which remained live as of 31 March 2023. These figures exclude enquiries that had not yet progressed to the formal EOI stage. There is no requirement that all cases first go through the EOI process. Community groups are free to go straight to making an asset transfer request.
- 2.7 The Council's Community Support Unit (CSU) provides capacity building support to community groups at all stages of the CAT process. Officers from the CSU carry out initial assessments of all groups submitting an EOI. This assessment identifies if the group has the necessary skills and experience to take on responsibility for an asset and considers any community engagement that has been done by the group. From this assessment, CSU officers can work with the groups on addressing any issues. A re-assessment is carried out on receipt of a formal asset transfer request.

### **3. SUMMARY OF IMPLICATIONS**

#### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Transferring assets to the community supports the Corporate Plan priority of building thriving, resilient, and empowered communities and the LOIP priority of empowering and connecting communities.

Where a property is held on a Common Good title, the interests of the inhabitants of the former burgh will take precedence over the Council's Corporate Plan and the Local Outcomes Improvement Plan (LOIP).

Where the property is held under a Public Trust, it is burdened with the trust purposes. Consequently, a request must be considered only in relation to these purposes.

#### **(b) Policy and Legal**

On 21 March 2017, the Policy and Resources Committee approved the following policy statement in relation to Community Asset Transfers (para 5 of the Minute refers).

"Moray Council recognises the important role that the transfer of property assets can play in empowering communities and strengthening their resilience. Where appropriate, the Council will use the transfer of assets to give more control to communities and local people, inspire them to find local solutions to community needs, and as a means of helping communities become more sustainable in the long term. In determining all asset transfer requests, the Council will have regard to the guidance provided by the Scottish Government in relation to asset transfer requests made under Part 5 of the Community Empowerment (Scotland) Act 2015, whether or not such requests are made under the provisions contained in the Act."

When assets are transferred at less than market value, the disposals must comply with the Disposal of Land by Local Authorities (Scotland) Regulations 2010. These regulations require the Council to be satisfied that the transfer is reasonable and that the disposal is likely to contribute to at least one of the following purposes:

- a) Economic Development,
- b) Regeneration,
- c) Public Health,
- d) Social Wellbeing, or
- e) Environmental Wellbeing.

Reasonableness in this context is taken to imply that the requested discount is the minimum necessary to allow the project to proceed and that it is proportionate to the costs and benefits of the project.

The Community Empowerment (Scotland) Act 2015 only applies to the Council when acting in its capacity as a local authority. Where the Council Members act as Trustees under a Public Trust, they are not acting in the capacity of a local authority but in their capacity as Trustees under and in terms of the Trust. Consequently, the Act confers no rights on community-controlled bodies in relation to Public Trust assets.

The Subsidy Control Act 2022 came into effect on 4 January 2023, replacing the previous State Aid provisions. The Act can apply whenever the Council sells or leases a property at less than market value, provided that the conditions for a subsidy are met. In particular, the beneficiary must constitute an 'enterprise' due to its activities involving the offering of goods or services. Section 7(2) of the Act provides that an activity is not to be regarded as an economic activity if or to the extent that it is carried out for a purpose that is not economic. If the activity is not for economic purposes, then the body will not be considered an enterprise and any financial assistance provided would not be considered a subsidy under the Act.

**(c) Financial Implications**

There are no financial implications arising directly from this report.

**(d) Risk Implications**

There are no risk implications arising directly from this report.

**(e) Staffing Implications**

There are no staffing implications arising directly from this report.

**(f) Property**

There are no property implications arising directly from this report.

**(g) Equalities/Socio Economic Impact**

An equalities/socio-economic impact assessment is not required.

**(h) Climate Change and Biodiversity Impact**

There are no climate change or biodiversity implications arising from this report.

**(i) Consultations**

The Depute Chief Executive (Economy, Environment and Finance), Chief Financial Officer, Community Services Manager, Property Asset Manager, Legal Services Manager, Susan Souter, Senior Accountant, Community Learning and Engagement Manager, Democratic Services Manager, and Equal Opportunities Officer have been consulted and their comments incorporated in the report.

**4. CONCLUSION**

- 4.1 This report meets the reporting requirements of section 95 of the Community Empowerment (Scotland) Act 2015 in relation to asset transfer requests processed from 1 April 2023 to 31 March 2024.**
- 4.2 During the year, officers dealt with four valid asset transfer requests and a further fifteen expressions of interest.**
- 4.3 The report provides details of the actions taken to support communities in the making of asset transfer requests.**

Author of Report: Andrew Gray, Asset Management Coordinator  
Background Papers: Held by author  
Ref: SPMAN-1293228629-1089