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**REPORT TO: CORPORATE COMMITTEE ON 14 JUNE 2022**

**SUBJECT: COMMUNITY ASSET TRANSFER REQUEST: GARMOUTH WATER TOWER**

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

**1. REASON FOR REPORT**

- 1.1 To invite the Committee to consider an asset transfer request made in respect of the former Water Tower, Standing Stones Park, Garmouth.
- 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. RECOMMENDATION**

**2.1 The Committee is invited to:**

- (i) **approve the request to transfer ownership of the Garmouth Water Tower to the Garmouth and Kingston Community Association subject to the terms and conditions set out in paragraph 5.1 of this report; and,**
- (ii) **authorise the Asset Manager (Commercial Buildings) and the Legal Services Manager to finalise detailed terms and conditions and complete the transfer.**

**3. BACKGROUND**

- 3.1 The Garmouth and Kingston Amenities Association (SC004777) leased the former water tower at Standing Stones Park, Garmouth, from the Council for a period of 50 years from April 1991 at a peppercorn rent. The tower is a category B listed building. The location of the tower is shown in **Appendix 1**.
- 3.2 The Amenities Association is in the process of transferring all of its assets to the recently formed Garmouth and Kingston Community Association (SC050545), a Scottish Charitable Incorporated Organisation. The Community Association was set up to replace both the Amenities Association and the Garmouth and Kingston Hall Committee (SC020371).

- 3.3 On 18 March 2022, the Community Association submitted a request for the transfer of title to the former water tower. As the request was not made under the asset transfer provisions of the Community Empowerment (Scotland) Act 2015, it can be determined by the Council at its own discretion.
- 3.4 The redacted asset transfer submissions are available on the Council's Committee Management System under the reference CAT-ATR-058 at <https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1867/Committee/46/SelectedTab/Documents/Default.aspx>.

#### **4. ASSESSMENT**

- 4.1 The Community Association was formed to benefit the community of Garmouth and Kingston and its immediate vicinity with the main purpose of supporting the wellbeing of people in that community by providing facilities and activities that promote community cohesion, development and the wellbeing of individuals.
- 4.2 Its purpose is to be exercised following the principles of sustainable development, where sustainable development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- 4.3 The property is considered to have no commercial value.
- 4.4 All CAT requests are assessed in relation to three factors: the community body's governance and financial management arrangements; the Best Value characteristics of its proposal; and whether the related benefits represent value for money. An acceptable assessment for all three factors is necessary for an asset transfer request to be recommended for approval.

##### **Governance and Financial Management**

- 4.5 The Community Association's governance and financial management arrangements are considered strong and sustainable.

##### **Best Value Characteristics**

- 4.6 Best Value characteristics are evidenced in the Association's proposal.

##### **Projected Benefits**

- 4.7 The projected benefits of the proposal are considered acceptable and represent value for money.

##### **Overall Assessment**

- 4.8 The strength of the Association's overall business case is considered moderate to strong. No reasonable grounds were identified for refusing the request. Further details of the assessment are shown in **Appendix 2**.

## **5. ASSET TRANSFER TERMS**

5.1 If the recommendations are agreed, the following terms would apply:

- (i) Subjects – the asset to be transferred comprises the former water tower at Standing Stones Park, Garmouth, as shown in **Appendix 1**.
- (ii) Price – the price payable would be £nil.
- (iii) Contamination – the asset to be transferred “with information” in terms of Contaminated Land legislation with the Garmouth and Kingston Community Association indemnifying the Council against any future claims relating to contaminated land. A desktop study by the Council’s Environmental Health Section concluded that there are no contamination constraints affecting this property.
- (iv) Fees/Expenses – the Community Association to meet the Council’s legal expenses in the processing of the transaction, including legal expenses and surveyors fees; and,
- (v) Other Terms – any other detailed terms agreed with the Council’s Legal Services Manager and Asset Manager (Commercial Buildings).

## **6. SUMMARY OF IMPLICATIONS**

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

Transferring assets to the community supports the 10 Year Plan aim of creating more resilient and sustainable communities and is consistent with the Corporate Plan value of promoting community empowerment as a means of supporting communities to take on more responsibility.

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

On 21 March 2017, the Policy and Resources Committee approved the following policy statement (paragraph 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.”

**(c) Financial Implications**

The current lease does not provide the Council with a rental income. The Asset Manager (Commercial Buildings) considers that the property has no commercial value and that its market value in relation to a disposal would be nil.

**(d) Risk Implications**

The risk of the Community Association failing is considered low. However, in the event of its dissolution, its constitution provides that any remaining assets would transfer to another suitable community body or charity that has purposes closely resembling those of the Association.

**(e) Staffing Implications**

If approved, all necessary work will be covered within existing staff resources. Consequently, there are no staffing implications arising from this report.

**(f) Property Implications**

The property implications are as detailed in this report.

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

An equalities impact assessment is not required as agreeing to the request would have no adverse impact on service delivery.

**(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, Head of Economic Growth and Development, Head of Education Resources and Communities, Legal Services Manager, Asset Manager (Commercial Buildings), P. Connor Principal Accountant, Community Learning and Engagement Manager, L. Robinson Committee Services Officer, and Equal Opportunities Officer have been consulted and their comments incorporated in the report.

Ward Members, Councillors Macrae, Morrison and Williams, are aware of the proposal and may make their views known at Committee.

## **7. CONCLUSION**

- 7.1 The proposed transfer contributes to the priorities set out in the Council's Corporate Plan and the Local Outcomes Improvement Plan.**
- 7.2 The strength of the Community Association's overall business case is considered moderate to strong. Specifically,**
- (a) Its governance and financial management arrangements are considered sound and sustainable,**
  - (b) Best Value characteristics are evidenced in the proposal, and**
  - (c) The projected benefits are considered acceptable and represent value for money.**
- 7.3 No reasonable grounds have been identified for refusing the request.**

Author of Report:	Andrew Gray, Asset Management Coordinator
Background Papers:	Held by author CAT/ATR/058 GKCA Asset Transfer Request Form CAT/ATR/058 GKCA Constitution CAT/ATR/058 GKCA Business Case
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