



REPORT TO: ECONOMIC GROWTH, HOUSING AND ENVIRONMENTAL SUSTAINABILITY COMMITTEE ON 8 JUNE 2021

SUBJECT: INFORMATION REPORT: COMMUNITY ASSET TRANSFERS

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 Community Asset Transfer requests dealt with during the period 1 April 2020 to 31 March 2021.
- 1.2 This report is submitted to the Economic Growth, Housing and Environmental Sustainability Committee following a decision of Moray Council on 17 June 2020 to agree a simplified committee structure because of the COVID-19 pandemic. In the case of this committee the combining of the delegated responsibilities of Economic Development and Infrastructure, Community Services (Housing and Property) and Finance (budget, capital and revenue monitoring) (para 9 of the minute refers).

2. BACKGROUND

- 2.1 Community Asset Transfer (CAT) is concerned with the transfer to community-controlled bodies of land and buildings held by public authorities. Moray Council has a long history of transferring assets to the community on a discretionary basis through granting leases and transferring ownership.
- 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. In deciding whether to agree to or refuse a request, relevant authorities must consider the following:
- (i) the reasons for the request;
 - (ii) any information provided in support of the request;
 - (iii) whether agreeing to the request would be likely to promote or improve
 - (a) economic development,
 - (b) regeneration,

- (c) public health,
- (d) social wellbeing, or
- (e) environmental wellbeing;
- (iv) whether agreeing to the request would be likely to reduce socio-economic inequalities;
- (v) any other benefits that might arise if the request were agreed to;
- (vi) how the request relates to the authority's duties under Equalities legislation; and,
- (vii) any obligations that may prevent, restrict or otherwise affect the authority's ability to agree to the request.

The authority should also consider how the potential benefits relate to its own functions and purposes and to any other matter that it considers relevant.

- 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 2020 to 31 March 2021. There is no legal requirement that all asset transfer requests be made under the Act. Therefore, in the interests of transparency and completeness, details of those requests received outwith the Act are also included in this report.
- 2.4 The legislation requires the report to cover two areas of activity. The first relates to asset transfer requests made under the Act and decisions 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.

3. ASSET TRANSFER REQUESTS

- 3.1 During the period covered by this report, the Council processed nine valid asset transfer requests made under Part 5 of the Act. Of these, two were approved and the assets transferred, four were approved awaiting transfer of the asset, one was refused, and two had not been determined by the end of the reporting period. Details of each are included in **Appendix 1**. Extensions to the decision period were agreed to accommodate delays caused by Covid-19 restrictions. In one case, an extension was agreed to allow two competing requests for the same asset to be considered alongside each other.
- 3.2 During the same period, only one asset transfer request was processed outwith the Act. This request related to the transfer of ownership of the Dufftown Community Centre to the Dufftown Community Centre SCIO (SC048668). The request was approved on 10 March 2020 and successfully transferred on 5 March 2021, there having been a substantial delay due to the restrictions imposed by Covid-19.
- 3.3 In addition to the ten asset transfer requests detailed above, officers dealt with twenty-seven formal Expressions of Interest (EOI) cases during the reporting period, nineteen of which remain live. These figures exclude enquiries that have not yet progressed to the formal expression of interest 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.

4. COMMUNITY SUPPORT

- 4.1 Generally, all groups enquiring about CAT will be signposted to both internal and external sources of additional guidance and support. Once an EOI is received, an officer will meet with the group to assess their readiness to proceed and identify its development needs. Officer support for community groups is prioritised based on the following categories:
- (i) High – Council initiatives, e.g. halls, community centres, public toilets.
 - (ii) Medium – community initiatives supported by the operating service.
 - (iii) Low – community initiatives where the operating service is neutral.
 - (iv) Unsupported – community initiatives where a transfer is likely to be detrimental to current or future Council service delivery.
- 4.2 During the 2020-2021 financial year, restrictions imposed due to Covid-19 meant that all support for community groups going through the CAT process was dealt with either online or by telephone. Nevertheless, staff from the Council's CAT Team and the Community Support Unit continued to provide support to community groups at every stage of the process.
- 4.3 The pandemic resulted in the temporary closure of facilities that had been or were in the process of being transferred to the community. The Community Support Unit helped these groups to access sources of funding to help cover ongoing running costs and undertake improvements during the lockdown. CSU staff have continued to provide support to these groups post-transfer. Examples of improvements carried out include the reconfiguration of the entrance area and toilets in the Cullen Community and Residential Centre and the securing of funds to upgrade the heating system and toilets in Dufftown Community Centre. Other facilities, such as Longmore Hall in Keith, became a base for the community Covid response.

5. SUMMARY OF IMPLICATIONS

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

Where the property is a Common Good asset, 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 the trust purposes.

Transferring assets to the community supports the LOIP aim of creating more resilient and sustainable communities with less need for universal services provided by the public sector and is consistent with the Corporate Plan value of promoting community empowerment as a means of supporting communities take on more responsibility.

(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.”

Where assets are transferred at less than market value, such disposals must comply with the Disposal of Land by Local Authorities (Scotland) Regulations 2010, which requires that the Council must be satisfied that the proposed 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 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 these cases.

(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 Impact Assessment is not required.

(h) 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, Acting Community Support Manager, L. Rowan Committee Services Officer, and Equal Opportunities Officer have been consulted and comments incorporated in the report.

6. CONCLUSION

- 6.1 During the financial year ending 31 March 2021, nine valid asset transfer requests made to the Council under Part 5 of the Community Empowerment (Scotland) Act 2015 were processed, details of which are set out in Appendix 1. During the same period, one further asset transfer was dealt with outwith the Act.**
- 6.2 The report provides details of the actions taken to promote the use of asset transfer requests, support communities in the making of such requests, and ensure that requests are determined appropriately.**

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Background Papers: Held by author
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