

All Committee meetings were cancelled with effect from 23rd March, 2020 due to the COVID-19 emergency.

The recommendations in this report were approved by an Executive Director of the Council, acting under delegated authority in terms of paragraph 2.1.1 of the Council's List of Officer Powers

21st May 2020 (CANCELLED)

Approved by Executive Director, Communities – 12th May, 2020

Community Asset Transfer Application by Newburgh Community Trust – East Shore Park

Report by: Paul Vaughan, Head of Communities and Neighbourhoods
Ken Gourlay, Head of Assets, Transportation and Environment

Wards Affected: 16

Purpose

The purpose of this report is to seek approval to a formal Community Asset Transfer request received from Newburgh Community Trust under Part 5 of the Community Empowerment (Scotland) Act 2015 to purchase East Shore Park, Newburgh.

Recommendation(s)

It is recommended that committee members approve the asset transfer request at the market value of £10,000 and all otherwise on terms and conditions to the satisfaction of the Head of Assets, Transportation and Environment and the Head of Legal and Democratic Services.

Resource Implications

If the request is approved there will be no loss of capital receipt as market value for the land is being offered.

Legal & Risk Implications

If the request is refused, the unsuccessful applicant may seek a review of the decision to refuse the request. This would be dealt with by the Community Empowerment Act Review Body, with the potential for further appeal to the Scottish Ministers.

Impact Assessment

An EqIA is not required because the report does not propose a change to existing policies and practices.

Consultation

The Community Trust has undertaken local consultation as part of the application process. Local ward Members are also aware of the application and are supportive of it and it is supported by the local community council.

1.0 Background

- 1.1 Part 5 of the Community Empowerment (Scotland) Act 2015 enables community transfer bodies to request the ownership, lease or management of publicly owned buildings or land. The community transfer body (CTB) and its request must meet the requirements of the Act before the Council can validate and consider the request.
- 1.2 The application by Newburgh Community Trust requesting an asset transfer of East Shore Park was validated on 30th January 2020. East Shore Park has accommodated sporting and recreational activity within Newburgh for many years. The Park is currently leased by Newburgh Juniors Football Club from Fife Council, and the Club has utilised and maintained the asset for many years. The Community Trust, in partnership with Newburgh Juniors Football Club intend to continue and develop this in line with community aspiration. East Shore Park is a common good asset and community consultation will be required in terms of Section 104 of the Community Empowerment (Scotland) Act 2015. Legal Services have confirmed that the property is alienable and consent from the Sheriff is not required for disposal.

2.0 Process for Dealing with Community Asset Transfer Applications

- 2.1 Part 5 of the Community Empowerment (Scotland) Act (the “Act”) came into force on January 2017. The Act provides a process for community bodies to request the sale, lease or management of buildings and land within the ownership of public authorities. The Council has a two-stage process for dealing with (1) CAT enquiries and (2) formal CAT requests. Stage 1 is not required in terms of the Act but encourages organisations to make an informal application in order for the Council to assess the extent of any advice or support necessary for organisations to make the most of the opportunities that the Act offers. A Community Transfer Body can submit a formal request in terms of the Act at any time. The Community Asset Transfer Team has set up an evaluation panel to evaluate and score requests in accordance with the criteria set down by the Act. A scoring matrix has been developed in order to allow requests to be evaluated objectively, fairly and transparently. The evaluation panel will score a request and make a recommendation to either accept or reject a request.
- 2.2 Section 82 (5) of the Act states that an authority must agree to a request unless there are reasonable grounds for refusing it. Reasonable grounds for refusal must be determined in the circumstances of each individual case. However, they are likely to include cases where:
 - the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal;
 - where agreeing to the request would restrict the relevant authority’s ability to carry out its functions; or
 - failure to demonstrate the benefits or delivery of the proposal.

- 2.3 Once the Committee decides to either approve or refuse the application, the Act requires that the Decision Notice states reasons for the decision reached by the Committee. These are set out in Appendix 1.

3.0 CAT Application by Newburgh Community Trust

- 3.1 Newburgh Community Trust (the “Trust”) is a company limited by guarantee and Scottish Registered Charity established in 2005. To date the Trust have conserved and managed properties of importance to the community and to improve the quality of life within the town. The Trust now owns areas of land along the edge of the river including three pontoons and a local reservoir which are used by local people for recreational activities from walking and birdwatching to rowing and community events.
- 3.2 The Trust has requested the transfer to community ownership of East Shore Park, Newburgh (the “Asset”). The Trust proposes to run the Asset through a management committee made up of members of Trust and Newburgh Junior Football Club. Newburgh is a small rural community in which local access to outdoor sporting and recreational activity for much of the population has historically been limited. For many, sporting participation has involved a round trip of more than 20 miles. East Shore Park lies within the heart of the town, a walled grassed area currently used predominantly, but not exclusively, for football by Newburgh Junior Football Club, who hold the lease from Fife Council. The area is also used by the local pigeon club, as well as the primary school, as a safe and secure venue for sports events.
- 3.2 The Asset has the potential to offer much more to the whole community in both sporting and recreational terms and take its place at the heart of the community's recreational provision. There is no similar facility within the community or within a ten-mile radius. It has a long connection with the town and sport has been played there over the decades. The park is walled and therefore offers a safe space with opportunities to establish a Men’s Shed, walking football, sports, such as hockey and football for girls, and to develop a social hub for community events.
- 3.3 Newburgh Community Trust, in conjunction with Newburgh Junior Football Club, would like to develop a variety of sporting and leisure activities with the aim of improving the quality of life of people living in and around Newburgh. Community ownership of the Asset will allow the park area to be maintained, enhanced and secured for future generations as well as enabling the Trust to seek external funding to upgrade and develop facilities. The Trust’s application has the support of the local community, community council and local members and the Trust have offered to purchase the Asset for £10,000.

4.0 Community Empowerment (Sc) Act Evaluation

- 4.1 The CAT evaluation panel individually scored the Trust's application followed by a consensus evaluation and scoring meeting held on 2nd April 2020. The panel considered the request using evaluation criteria as laid down by the Act. A copy of the completed scoring matrix is attached at Appendix 2. The panel considered that the Trust's proposal would:
- (a) improve economic development of the community encouraging local residents and visitors to remain within the town for sporting activities with more footfall for local businesses. More volunteers will be recruited and trained;
 - (b) increase access to sporting provision at a wide range of levels to promote a healthier lifestyle and promote and improve physical well being;
 - (c) With a diverse range of activities for young to old it will promote social interaction and mental well being;
 - (d) Promote environmental well being by allowing future investment in the Asset and surrounding buildings by way of ownership and access to associated funding;
 - (e) Reduce inequalities by removing barriers to sport, particularly transport, as the nearest facilities are either Dundee or Perth.

The price offered by Newburgh Community Trust is £10,000.
The market value of the land is considered to be £10,000.

- 4.2 Under the Community Empowerment (Scotland) Act 2015, the CAT evaluation panel decided that:
- (i) Newburgh Community Trust and Newburgh Juniors Football Club have been working together and identified the need and potential of using the Asset to deliver a range of activities to benefit the wider public;
 - (ii) Community consultation has demonstrated support for this proposal;
 - (iii) Both the Newburgh Community Trust and Newburgh Juniors Football Club are well established organisations with a track record for managing and maintaining properties and delivering services to the local community;
 - (iv) The Asset will be purchased from the Trust's own resources, they have demonstrated realistic financial forecasting over the next 5 years to deliver the proposal and its ongoing sustainability.

Newburgh Community Trust received a consensus score of 69 points out of a maximum of 104 points and the panel recommended approval of the transfer on the basis of conditions to be confirmed by the Head of Assets, Transportation and Environment.

5.0 Disposal of Properties for Less than Best Consideration

- 5.1 Where the Council is considering a proposal that land (or buildings) be disposed of at 'less than the best consideration that can reasonably be

obtained,' in situations like the current one, it needs to follow the process set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

The process consists of three steps:

- The Council must appraise and compare the costs and other disbenefits and the benefits of the proposal;
- Be satisfied that the disposal for that consideration is reasonable; and
- Be satisfied that, as regards some or all of the local authority area or persons resident or present there, the disposal is likely to contribute to the promotion of improvement of economic development or regeneration; health; social well-being; or environmental well-being.

5.2 The asset has been valued at £10,000 and Newburgh Community Trust has offered a purchase price of £10,000.

The benefits of the application are that community ownership will extend the range of activities offered in the park and will increase the potential for external funding to improve the asset

There are no disbenefits.

Comparison : The full market value of the asset has been offered.

Further, it is considered that the disposal is likely to contribute to the promotion of improvement of economic development or regeneration; health; social wellbeing; or environmental well-being in the following ways: by providing an inclusive environment for those who are lonely or isolated; repairing and improving the building through securing funding; and improving mental and physical well-being.

6.0 Conclusion

6.1 Following evaluation of the CAT request in terms of the Act the evaluation panel and CAT team are recommending the disposal of East Shore Park to Newburgh Community Trust at £10,000 market value on the basis that the request will deliver increased opportunities for sporting and non-sporting activities within the community and further develop the Asset for the benefit of the town of Newburgh and surrounding community.

Appendices

1. Reasons for Approval or Refusal of Request
2. Scoring Matrix

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Approval of request

Matters to be considered

1. Has the organisation demonstrated the need for the proposal in their community?
Does it have community support?

2. Benefits of the request

The Council needs to consider whether agreeing to the proposal would be likely to promote or improve:

- Economic development
- Regeneration
- Public Health
- Social well-being
- Environmental well-being, or

Reduce inequality of outcome which result from socio-economic disadvantage.

3. Ability to deliver

The Council must consider whether the proposal is sustainable and whether the organisation has the ability to deliver. Has the organisation:

- provided evidence on how they intended to fund the proposal. Have they identified all costs associated with delivering the proposal and how these would be covered in the short and long term?
- provided evidence of the appropriate skills and experience required to manage and maintain the asset.
- Demonstrated that the projected benefits were based on robust information and the proposal demonstrated value for money.

4. Will the proposal restrict the delivery of the Council's functions?

Consider whether the proposal will contribute to achieving local and national outcomes.

5. Is there an alternative proposal?

This can be another community asset transfer request or the Council's own requirement for the asset. Assess the benefits of the request against those of the alternative proposal.

Refusal of request

Matters to be considered

1. Has the organisation demonstrated the need for the proposal in their community? Does it have community support? If the proposal has attracted opposition and causes division within the community then it does not have a net benefit.

2. Benefits of the request

The Council needs to consider whether agreeing to the proposal would be likely to promote or improve:

- Economic development
- Regeneration
- Public Health
- Social well-being
- Environmental well-being, or

Reduce inequality of outcome which result from socio-economic disadvantage.

3. Ability to deliver

The Council must consider whether the proposal is sustainable and whether the organisation has the ability to deliver. Has the organisation:

- provided evidence on how they intended to fund the proposal. Have they identified all costs associated with delivering the proposal and how these would be covered in the short and long term?
- provided evidence of the appropriate skills and experience required to manage and maintain the asset.
- Demonstrated that the projected benefits were based on robust information and the proposal demonstrated value for money.
- What is the impact of project failure?

4. Will the proposal restrict the delivery of the Council's functions?

Will there be an unacceptable impact on the Council's ability to deliver its functions? For example, it may interfere with operations or require the Council to put alternative arrangements in place at substantial cost.

5. Is there an alternative proposal?

This can be another community asset transfer request or the Council's own requirement for the asset. Assess the benefits of the request against those of the alternative proposal.

6. Other obligations or restrictions

Is the asset leased by the Council and there are restrictions on assignation or subletting? Is the asset common good and consent from the Sheriff is required? This would not prevent the transfer but there would be additional cost involved in obtaining consents. Consider whether this cost would have to be met by the organisation.

Scoring Matrix for Stage 2 Applications under Part 5 – Community Empowerment (S) Act 2015

Name of applicant: Newburgh Community Trust
Asset being applied for: East Shore Park

Assessment Criteria	Score
<p>Section A – About the Proposal</p> <p>A.1 - Are the aims and objectives of the proposal clearly defined?</p>	3
<p>A.2 - Has the organisation described what services they will deliver and explained why they are required?</p>	3
<p>A.3 - Has the organisation described why they require the asset and what difference this will make to delivery of services in their area?</p>	2
<p>A.4 - How does the proposal compare with similar services being delivered in the same area? What is the additionality/displacement?</p>	3
<p>Section B – Wider support and wider public support</p> <p>B.1 - Has the applicant organisation demonstrated that there is sufficient demand for the proposal?</p>	2
<p>B.2 - Local community support</p> <p>Has the organisation demonstrated that there is sufficient support from the local community? This should be based on widespread consultation of those who would be served by the asset as well as support from community partners.</p> <p>Evidence of stakeholder consultation is required including details of who was consulted, how, what the response was etc.</p>	2
<p>B.3 - Partnerships - Has the organisation provided details of any partnership arrangements required to deliver the proposal successfully?</p>	2
<p>B.4 - Equality - Has the organisation demonstrated how it will take into account the different needs of the community? Does the application demonstrate where a proposal may reduce inequalities?</p>	2
<p>Section C - Impact/ Benefits</p> <p>C.1 - Assess whether agreeing to the request would be likely to:</p> <p>promotes or improve:</p> <ul style="list-style-type: none"> • Economic development • Regeneration • Public health • Social well-being • Environmental well-being • Reduce inequalities 	2

Section D – Organisational Viability	3
D.1 - Has the organisation demonstrated that they have experience of managing an asset?	
D.2 - Has the organisation demonstrated that they have experience in delivering the proposed services?	2
D.3 - Has the organisation provided details of individuals who have the skills to a) manage the project b) run and manage the asset? This should include details of the individual skills and experience.	3
D.4 - Has the organisation demonstrated they have clear governance and decision-making procedures for managing the asset and delivering the services e.g. there needs to be a clear process for making decisions including who will be responsible for booking rooms, dealing with site problems, compliance with legal issues such as health and safety.	2
D.5 - Has the organisation demonstrated they have a clear understanding as to what is required in relation to managing an asset? E.g. insurance, maintenance of the building, boilers, firefighting equipment and electrical items, EPC, legionella testing etc.	3
D.6 - Has the organisation provided details of the monitoring arrangements to be put in place to ensure the project delivers its key objectives?	2
Section E – Financial Information	2
E.1 - Has the applicant organisation provided their projected income and expenditure and cash flow forecasts? Have they demonstrated there is sufficient projected cash flow to show the proposal is financially viable?	
E.2 - Has the organisation demonstrated the need as to why the asset should be transferred at less than best consideration?	4
E.3 - Use of Resources Has the organisation identified all the resources required to deliver the benefit? Consider: <ul style="list-style-type: none"> • Funding obtained so far • Funding and support required from the Council • Other sources of funding • Number of employees or volunteers available to run/maintain the asset 	3
E.4 - Has the organisation demonstrated prioritisation of resources in the longer term in order to contribute to sustainable development? Demonstrate future funding or self-financing arrangements. Are the assumptions credible/ evidenced?	3
Section F – Property	4
F.1 - If the organisation seeks a discount then the benefit of the request should be proportionate to the value of the asset and the level of discount. Has the discount been justified?	

F.2 - Will the project have an overall financial benefit on public sector costs (e.g. removes the maintenance burden from the Council)	3
F.3 – Has sufficient consideration been given to property costs?	3
F.4 – Has the organisation provided sufficient evidence that they merit and can sustain exclusive use of the asset (based on current user information provided)?	3
G. Local and National Outcomes	3
G.1 - Consider how the proposed benefits of the asset transfer request will contribute to achieving the Council's outcomes or to national outcomes more generally.	
G.2 - Consider how the proposal will impact on the Council's own delivery of services.	3
G.3 - To what extent does the proposal contribute to local or national priorities? Produce a clear plan for achieving intended outcomes (ideally showing links to local or national outcomes),	2

Total score: 69 / 104

Assessment Scoring Matrix

To assess proposed use and financial arrangements for the asset. Must be proportionate and appropriate.

-2	Has negative impact on the Councils activities
-1	Has negative impact on existing provision/ existing benefit
0 = Poor	Little or no response in regard to the submission with ill-defined unrealistic ambitions
1 = Weak	The submission contains only minor detail and is not based on robust information
2 – Moderate	The submission provides a level of detail which enables understanding with acceptable projected benefits
3 = Strong	The submission provides sufficient evidence that the issue has been considered with sound, sustainable Best Value characteristics
4 = Very Strong	The applicant has included all issues in the submission and has provided additional information which enables detailed understanding with strong and sustainable Best Value characteristics with robust related project benefits