

AGENDA ITEM NO 4

REPORT NO 210 /18

ANGUS COUNCIL

POLICY & RESOURCES COMMITTEE – 19 JUNE 2018

COMMUNITY ASSET TRANSFER – DECISION REVIEW PROCEDURE

REPORT BY IAN LORIMER, HEAD OF FINANCE & LEGAL

ABSTRACT

This report seeks member approval of the process and guidance which will apply for any Community Asset Transfer applications where the applicant wishes an internal review of the Council's original decision.

1. RECOMMENDATIONS

1.1 It is recommended that the Committee:-

- a. approve the decision review procedure process and guidance set out in Appendix 1 to this report;
- b. recommended to Council the formation of a CAT Decision Review Committee as set out in Section 4.3 of this report;
- c. note that creation of and appointments to the CAT Decision Review Committee will require be determined at the next meeting of Angus Council in September 2018.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN (LOIP) AND COUNCIL PLAN

2.1 This report contributes to the outcomes described in the Local Outcomes Improvement Plan, Locality Plans and Council Plan, which focus on the economy, people and place. Community Asset Transfer is a key part of Community Empowerment and it is important that the Council support community groups in a manner which delivers best value.

3. BACKGROUND

3.1 The Community Empowerment (Scotland) Act 2015 introduces a right for community bodies to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for any land or buildings they feel they could make better use of. Community bodies can request ownership, lease or other rights, as they wish through a process known as Community Asset Transfer (CAT). The Act requires those public authorities to assess requests transparently against specific criteria, and to agree the request unless there are reasonable grounds for refusal.

3.2 A community transfer body can ask for their asset transfer request to be re-examined in certain circumstances. This can either be in the form of a **review** (where the asset transfer request is considered again by the Council) or an **appeal** (where the asset transfer request is considered by the Scottish Ministers). This report sets out the proposed review procedure to meet the requirements of The Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016.

3.3 A community transfer body can seek an internal review of the Council's decision if:

- their request is refused;
- the terms and conditions in the decision notice are significantly different from those in the request; or
- no decision notice is issued within the required period (6 months).

4. REVIEW PROCEDURE

- 4.1 Appendix 1 sets out the proposed guidance and process for reviews and is based largely on the national guidance and relevant Regulations. The Committee is asked to approve this process and guidance for adding to the Council's existing suite of CAT guidance.
- 4.2 In line with the legislation the Council must put in place an internal review mechanism so that CAT decisions made by the Policy & Resources Committee can if requested by applicants be reviewed. Applicants can appeal directly to Scottish Ministers without first going through the Council's review process.
- 4.3 To fulfil the Council's obligations under the legislation it is recommended that a new CAT Decision Review Committee of the Council be formed. This Committee's sole remit would be to review CAT application decisions by the Policy & Resources Committee and any terms and conditions applied to CAT applications where requested to undertake such a review by a CAT applicant. It is recommended that the CAT Decision Review Committee would have 5 members and be drawn from members not on the Policy & Resources Committee in such a manner as to reflect the political balance of the Council. In conducting any review the CAT Decision Review Committee would require to follow the Council's CAT policies and assessment criteria.
- 4.4 Creation of and appointments to the proposed CAT Decision Review Committee are matters which require decisions of the full Council. It is accordingly recommended that the Committee recommend such course of action to the Council when it next meets in September 2018. A formal remit for the Committee for incorporating into Standing Orders will be prepared for that Council meeting in September.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no additional financial implications for the Council arising from the recommendations in this report. All CAT applications are processed in accordance with the Council's policy and assessment model and any financial implications are considered as part of that process.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report 105/18 – Community Asset Transfer Policy Development & Applications Update Report

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