

**ANGUS COUNCIL**

**SPECIAL ARRANGEMENTS COMMITTEE – 26 MAY 2020**

**COMMUNITY ASSET TRANSFER APPLICATION DECISION – UNITS 14, 16/17 ARBROATH  
BUSINESS CENTRE, DENS ROAD, ARBROATH**

**JOINT REPORT BY DIRECTOR OF LEGAL & DEMOCRATIC SERVICES  
AND DIRECTOR OF FINANCE**

**ABSTRACT**

This report seeks the Committee's views on a Community Asset Transfer (CAT) application for units 14, 16/17 Arbroath Business Centre, Dens Road, Arbroath.

**1. RECOMMENDATIONS**

1.1 It is recommended that the Committee:-

- a. note the background to Community Asset Transfer (CAT) and the Council's policy and method of assessing applications as set out in Report 105/18;
- b. note the summary information on this CAT application and the outcome of the assessment process contained in Appendix 1;
- c. note the summary information on the alternative use of the asset and the outcome of the assessment process as contained in Appendix 2;
- d. note the other factors relevant to the CAT application including the financial implications and risks outlined in the report;
- e. note the views, recommendations and suggested options from the Community Asset Transfer Officer Group (CATG) as outlined in Section 7 of this report regarding this CAT application;
- f. based on the information and advice contained within this report including the options recommended by the CATG determine whether to:-
  - (i) agree the application (with or without conditions); **OR**
  - (ii) reject the application, giving reasons for such rejection
- g. note that if the application is approved it will be necessary to conclude formal legal agreements before the transfer formally takes place and that terms and conditions in line with the Council's agreed policy will apply; and
- h. note that if the application is rejected the applicant can seek a review of that decision to the Council's CAT Decision Review Committee and ultimately can appeal to Scottish Ministers

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

- 2.1 The proposals set out in this report will contribute to the outcomes outlined in the Angus Community Plan, Locality Plans and Council Plan, which focus on the economy, people and place. Community Asset Transfer is a core 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 CAT applications are administered and assessed by the Community Asset Transfer Officer Group (CATG) using the assessment model approved in Report 105/18 (Angus Council meeting of 22 March 2018 – see link below).

[https://www.angus.gov.uk/committees/angus\\_council/angus\\_council\\_22\\_march\\_2018](https://www.angus.gov.uk/committees/angus_council/angus_council_22_march_2018)

- 3.3 In deciding whether to agree to or refuse the request, the Council must consider the following things:-

- the reasons for the request
- any other information provided in support of the request
- whether agreeing to the request would be likely to promote or improve:-
  - economic development
  - regeneration
  - public health
  - social wellbeing
  - environmental wellbeing, or
  - whether agreeing to the request would be likely to reduce socio-economic inequalities
- any other benefits that might arise if the request were agreed to
- how the request relates to the relevant authority's duties under Equalities legislation
- any obligations that may prevent, restrict or otherwise affect the authority's ability to agree to the request

- 3.4 In reaching its decision the Council must compare the benefits of the community transfer body's proposals with the benefits that might arise from any alternative proposal. Alternative proposals may be another asset transfer request; another proposal made by the Council; continuing the existing use or disposal on the open market.

- 3.5 As well as assessing the benefits which the proposed CAT may deliver the Council must also assess whether the community transfer body is able to successfully deliver the project, and make it sustainable.

## **4. CAT APPLICATION – ARBROATH MENS SHED**

- 4.1 The above group have applied for a Community Asset Transfer for Units 14, 16 & 17 Arbroath Business Centre, Dens Road, Arbroath which are owned by the Council. The group wish to lease the asset for a period of 25 years and have requested the right to purchase within the lease period. The group's application was confirmed as a valid application in line with the legislation on 30 July 2019. The application has been subject to public notices and has been assessed in line with the national guidance and the Council's assessment process. The group currently have a conventional lease of the Units being applied for which runs until November 2020.

4.2 No objections were received from members of the public or other groups regarding this application. A total of 8 letters of support were received with the CAT application. These have been placed in the elected members Sharepoint area for background.

4.3 A summary of the application and the applicant's proposals for the asset they are seeking to take on through CAT is attached as **Appendix 1**. In broad terms the Men's Shed propose to provide recreational facilities and promote the social needs, health and well-being of men of all ages and backgrounds living in Arbroath and surrounding areas by:

- Creating, developing and maintaining a facility, namely a Men's Shed.
- Offering opportunities for men in the Arbroath area to meet and undertake creative, physical, purposeful and recreational activities of their choice.
- Reducing isolation of men in the area thus contributing to their physical and mental wellbeing.
- Developing the capacity of men in the Arbroath area to share their skills and knowledge with others in the community

4.4 The application has been assessed by the CAT Officer Group (CATG) using the Council's agreed assessment model. The application scored as follows:-

Community Benefit (score out of 90)	50.2
Financial Assessment (score out of 52)	11.6
Overall Assessment/ Best Value Conclusion	<b>May provide Best Value – careful judgement required</b>

4.5 Based on the above assessment the proposed CAT may provide best value however careful judgement is required. Members are encouraged to consider whether the application represents best value. In line with Report 105/18, it is for members of the Committee to make the final determination on whether the application is approved or rejected. Members may approve the application with conditions. In considering their position members are reminded that the Act requires public authorities to agree requests unless there are reasonable grounds for refusal. Applicants can also apply for a review of, and ultimately appeal the Council's decision. **The views and recommendations of the CATG regarding this application are set out in Section 7 below.**

4.6 Specific points to note in this application and its assessment include:-

- The group request the rights to purchase the asset within the period of the 25 year lease.
- The group's offer of rent is £500 p.a. Their current lease for the same 3 Units is £6,020 p.a. (which is a 30% discount on the market value of £8,600)
- The group are open to discussion and negotiation with Angus Council as to other configurations of the property which would allow adequate space for the Shed whilst having minimum impact on any development opportunities. The group feel there is an opportunity to accommodate diverse interest at the Arbroath Business Centre.
- The proposed Arbroath flood prevention scheme would entail the temporary removal of a cycle shed in the car park at the Business Centre. The group would like to modify and rebuild the bicycle shed to store wood which would allow the current wood storage units to be put to better use.
- The length of lease sought in the application has, in the opinion of Council officers significant implications for future development of the site

## 5. ALTERNATIVE USE – ANGUS COUNCIL ECONOMIC DEVELOPMENT

5.1 The Arbroath Business Centre is currently owned by Angus Council. The building requires investment to bring it up to a suitable condition and there remains doubt about whether such investment would be repaid by securing new lets. The building is split into 20 plus individual units including office space and workshops. There are currently 6 tenants in the property and despite pro-active marketing by Economic Development for the last 2 years, there has been no new interest in the facility. The overall building runs at a loss of circa £40,000 p.a.

- 5.2 The ongoing rating liability is substantial and consultants have been engaged to assist with future use and ownership options. Any new tenants have been offered a one year lease in order not to impede potential future options for the site.
- 5.3 Since the CAT application from the Men's Shed is for a Council asset which has not been declared surplus to requirements it is necessary to assess that application against the existing use of the asset by the Council. In addition, because the CAT application is for a 25 year period it is also appropriate to look at the potential alternative use of the site over the longer term. A summary of the alternative use considerations is attached in **Appendix 2**.
- 5.4 To assist members in making their decision regarding the CAT application from the Arbroath Men's Shed, the alternative use of the site has also been assessed by members of the CATG using the Council's agreed assessment model. The alternative use scored as follows:-

Community Benefit (score out of 90)	58.6
Financial Assessment (score out of 52)	30.0
Overall Assessment/ Best Value Conclusion	Proposal likely to represent best value

## 6. OTHER FACTORS TO CONSIDER IN REACHING A DECISION ON THE CAT APPLICATION

- 6.1 The Arbroath Men's shed is a well-established group who are already operating from the premises which are the subject of the CAT. Since their move from Hospitalfield House to the Units in November 2018 the group have enjoyed an increase in membership and continue to receive requests from the Arbroath community for assistance. The group, its objectives and the community benefit from its activities are considered worthy of the Council's support.
- 6.2 Having a CAT tenant on part of the site could however impact on the viability and value for the remainder of the site and its ability to be developed. Officers consider it unlikely that the site could be redeveloped with part of the existing Business Centre having to be retained due to the long term CAT lease being applied for.
- 6.3 Council officers have commissioned consultants to review the entire Economic Development property portfolio and from that options in relation to the site will emerge. At this point it is considered unlikely that the site would continue in its current form. The most likely scenarios are either to make a significant investment in the Business Centre because there is considered to be a long term demand for such accommodation or to redevelop the entire site as part of a Master Plan for the area.
- 6.4 The Men's Shed application has asked for a right to purchase the units during the term of the lease. This option is not competent in terms of the legislation and should be rejected. Any proposal to purchase would need to be subject of a separate CAT application (specifying the purchase price), and a consultation and assessment process will be required at the point at which purchase may be sought.

## 7. VIEWS AND RECOMMENDATIONS FROM CAT OFFICER GROUP (CATG)

- 7.1 The CATG has assessed both the CAT application and the alternative use and the results are as described in Sections 4 and 5 of this report. Although both options have been assessed using the same assessment model and criteria members will appreciate the challenges of comparing the merits of options which are quite different, which is why the assessment model scores are only intended as a guide.
- 7.2 The CAT application scores relatively well on community benefit but the CATG were concerned about the negative financial impact from the proposal and it has scored poorly in this regard. The alternative use scores for community benefit and financial assessment score higher than the CAT application, in part because of the development potential of the site, and also because of the potential for the wider Dens Road area to be the subject of a regeneration masterplan which would identify the preferred uses of the various sites along the Brothock Corridor, including for economic development and employment opportunities, for residential and for commercial and retail.

7.3 Taking into account all of the information in the application, the assessment results and other factors set out in this report the CATG recommend that the Committee consider the following options in determining the CAT application:-

**Option 1 - Agree the application as submitted (with the exception of the right to purchase during the lease which would need to be subject to a separate CAT application)**

**Option 2 - Reject the application in its entirety on the basis that the alternative use provides better value outcomes and future development of the site is not compromised. Under this option short term non-CAT leases (on terms to be negotiated) could continue until such time as the Council's plans for the site have been confirmed**

**Option 3 - Agree the application but only for a maximum of 5 years with both parties having the right to terminate the lease on giving 12 months written notice and for a rental of £2,850 p.a. (this would be 33% of the market value and a reduction of 53% on what the group currently pay to lease the premises)**

7.4 The table below summarises the main advantages and disadvantages of each option.

**Table 1 – Main Advantages and Disadvantages of Options**

Option	Main Advantages	Main Disadvantages
1	Would provide the Arbroath Men's Shed with security of accommodation for the long term enabling the group to develop and grow and potentially secure external funding based on that security of tenure	Would significantly restrict the Council's ability to develop the site in future and would require the Business Centre to be retained and investment/maintenance costs incurred by the Council to keep it in a useable condition. The property would likely become an expensive liability for the Council unless new lets could be secured
2	Ensures the Council's future plans for the site are not compromised in any way by having a tenant taking up part of the premises and provides the Men's Shed with accommodation until the Council's plans for the site have been confirmed and implementation commenced.	Could restrict the Men's Shed ability to grow and raise funds from external bodies and would cost the group more to lease the premises than under a CAT lease
3	Provides the Men's Shed with the financial benefits of a CAT lease (lower cost) and a commitment from the Council not to terminate the lease without giving at least 1 year's notice. Also gives the Men's Shed the option to terminate the lease if for any reason they did not wish to continue	Could restrict the Men's Shed ability to grow and raise funds from external bodies. Would to a degree restrict the Council's ability to develop the site by building in a delay (notice period).

7.5 On balance the CATG consider that Option 3 provides the best way forward by providing the Men's Shed with some security and cost savings compared to their current lease but mitigates the risk that the future development of the site is hampered by having a long term tenant. Option 3 provides time for the Council to review and consult on options for the future of the site whilst potentially providing the Men's Shed with low cost accommodation for up to 5 years over which time they can continue to establish and develop their organisation. This period could also be used if the group wished to work with the Council to find alternative long term accommodation which could be subject to a separate CAT application in future.

## 8. FINANCIAL IMPLICATIONS

8.1 The financial impact on the Council has been taken into account in the assessment of the CAT application and the alternative use option. The main points of note are as follows:-

- Agreeing option 1 and leasing the asset to the Arbroath Men's Shed would result in income of £500 p.a. in comparison to the market rental of £8,600 p.a.
- Approval of the CAT (option1) could have significant costs to the Council over the 25 year period in terms of investment and maintenance of the remainder of the building and unless other tenants could be found such investment and maintenance costs would not be recovered through rental income.
- Approval of the CAT (option 1) would make redevelopment of the site (should that prove to be a preferred option in future) more difficult and may affect redevelopment costs and or land values
- Rejection of the CAT (option 2) would allow the existing lease which the Men's Shed have with the Council to run its course and possibly be extended at an annual rental of £6,020 p.a.
- Approval of a short term CAT (option 3) would result in income of £2,850 p.a. to the Council and the tenant would be responsible for a share of building maintenance and other running costs.

## 9. RISKS

9.1 Specific risks in addition to those outlined elsewhere in this report in relation to the CAT application include:-

- a) There is a risk of the Arbroath Men's Shed being unable to find alternative premises in the medium term if their CAT application is rejected in its entirety and this may harm the group's objectives and the benefits they bring to their members and the wider community. This risk would be mitigated somewhat if Committee ultimately decide to agree option 3 as this could mean the group having up to 5 years accommodation.
- b) There is some risk associated with a community group being sustainable over the length of the proposed lease and being able to pay the rent and maintain the building as lessee so that it can be returned to the Council in appropriate condition at the end of the lease. This risk isn't considered to be significant given the strength of the group currently.
- c) Although the Council's standard terms and conditions for CAT leases are that the tenant bears all maintenance and repair costs this could be challenging in this instance where the premises (because they are part of a larger building) are shared.

## 10. CONSULTATION

10.1 The Chief Executive and the Director of Strategic Policy, Transformation and Public Sector Reform have been consulted in the preparation of this report.

**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 [https://www.angus.gov.uk/committees/angus\\_council/angus\\_council\\_22\\_march\\_2018](https://www.angus.gov.uk/committees/angus_council/angus_council_22_march_2018)

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List of Appendices:

Appendix 1 – CAT application summary, provided by the applicant, and outcome assessment

Appendix 1 – Annex 1 – location map

Appendix 1 – Annex 2 – Business Centre Floor Plan

Appendix 2 - existing use summary, provided by Economic Development, and outcome assessment