

## AGENDA ITEM NO 5

REPORT NO 151/20

### ANGUS COUNCIL

#### SPECIAL ARRANGEMENTS COMMITTEE – 26 MAY 2020

#### COMMUNITY ASSET TRANSFER APPLICATION – DECISION – SKILZ ACADEMY, ASTROTURF PITCH AND GROUND, ARBROATH SPORTS CENTRE, KEPTIE 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 recently submitted regarding a Council asset.

### 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 existing 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 Local Outcomes Improvement Plan, Locality Plan 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).
- 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 – SKILZ ACADEMY**

- 4.1 The above group have applied for a Community Asset Transfer for the Astroturf pitch and Ground at Arbroath Sports Centre, Arbroath. The group wish to take ownership of the asset and have requested access rights for users of the facility. 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.
- 4.2 No objections were received from members of the public or other groups regarding this application. [A total of 36 letters or expressions of support were provided with the CAT application. These have been placed in the 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**. Broadly the group propose to take ownership of the surface and adjacent land and if successful, further develop the facility in a series of phases over a period of time to provide a community hub. The first phase would involve the replacement of the existing surface to provide an all-weather surface useable all year round. The second phase would see the replacement of existing floodlights with new low energy LED lights. The third stage would seek permission from Angus Council to design and build a community building adjacent to the pitch. This building would house toilets; changing rooms, meeting room/classroom and office space.

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

Community Benefit (score out of 90)	55
Financial Assessment (score out of 52)	26
Overall Assessment/ Best Value Conclusion	likely to represent best value

4.5 Based on the above assessment the proposed CAT is likely to represent best value however 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 asset being applied for is used for existing service provision and is not considered surplus to the Council's operational requirements but does need significant investment to continue in use
- The applicant advises that their contractors would require exclusive and unrestricted access to the area for the period of removal and installation of the new surface which would need to be agreed in consultation with Angus Council
- There are a large number of operational and financial issues to consider with this application as set out in detail in Section 6 of this report.
- The applicant has produced a Business Plan in support of the application (see Annex A of Appendix 1). [A copy of the Skilz Academy Strategic Plan has also been placed in the elected members sharepoint area as additional background on the applicant and their plans for the future.](#)

## 5. EXISTING USE - ANGUSALIVE, ARBROATH SPORTS CENTRE, ASTRO TURF PITCH AND GROUND

5.1 The Astro turf pitch and ground is currently owned by Angus Council and ANGUSalive have the licence to occupy and operate from the site. ANGUSalive would like to continue to work in partnership with Angus Council to renovate the pitch and continue to manage its use. Usage has dropped over the last few years as the surface of the pitch has deteriorated and not been suitable for the activities that clubs and groups wish to book. The pitch is badly in need of renovation; this is estimated to cost in the region of £220,000.

5.2 ANGUSalive officers have provided their views and proposals to maintain their current management of the pitch and this is attached in **Appendix 2**. This option would involve significant investment from a combination of Angus Council and ANGUSalive to restore and refurbish the multi-surface area.

- 5.3 Although the existing pitch is operated by ANGUSalve the whole site is part of the school campus and consideration of the CAT also needs to take into account the implications for Arbroath High School and its pupils and staff. This consideration covers school use of the pitch as well as operation of the pitch itself within a campus environment. The Council's Active Schools team support the summary provided by ANGUSalve. They are confident that with a suitable surface the pitch would be well used by the school and Active Schools during core hours. In addition they feel that the range of charges that ANGUSalve use is far more flexible than the option proposed as part of the Skilz Academy CAT application. The facility remaining with Angus Council and ANGUSalve would allow an after school/active schools volunteer led programme to run each evening.
- 5.4 A letter setting out the views of the Education and Lifelong Learning Service taking into account the views of senior management at the school regarding the CAT application by Skilz Academy is attached as **Appendix 3**. Members should consider the alternative use as set out in Appendix 2 alongside the views in Appendix 3 given this is a school campus issue.
- 5.5 To assist members in making their decision regarding the CAT application from Skilz Academy, the current use of the site has also been assessed by members of CAT Officer Group using the Council's agreed assessment model. The current use scored as follows:-

Community Benefit (score out of 90)	68
Financial Assessment (score out of 52)	29
Overall Assessment/ Best Value Conclusion	likely to represent best value

- 5.6 The alternative use scores slightly higher than the CAT application on both measures but there is little to choose between the options from the scoring assessment which in any event should be considered only as a guide in reaching a final decision.

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

### **Community Benefit / Capacity to Deliver**

- 6.1 The Skilz Academy is a well-established group who have been successful in other fundraising including most recently through the Participatory Budgeting process to expand what they can offer. The group are an active community organisation whose activities add a great deal of value to local people and groups. The work which Skilz Academy do in the local community is worthy of encouragement and support. Further detail on what's currently done and what could be offered through the CAT is outlined in **Appendix 1 and Annex A to that Appendix**.

### **Operational Considerations**

- 6.2 There are a number of significant operational issues that would arise if the CAT was to be approved. None of these are currently considered insurmountable but they do highlight that further discussion and solutions would be needed and there is therefore no guarantee that if the CAT was approved it would be possible to find workable solutions acceptable to all parties (Skilz Academy, Angus Council and ANGUSalve).

- a. School use – **Appendix 3** highlights concerns from the Education & Lifelong Learning Service regarding access times for use of the facility by school pupils but in summary they have a need for greater access than Skilz Academy appear to be offering. This is a critical factor which requires significant consideration to ensure there is no detriment on the school's ability to deliver its core PE curriculum and related extra-curricular activity. This would need further discussion/negotiation if the CAT application is agreed with suitable school access being a pre-requisite for the CAT to progress to a conclusion.
- b. Access/Security – the location of the pitch is in the grounds of Arbroath High School and Sport Centre. The Education and Lifelong Learning Service has highlighted security concerns as the pitch can only be accessed either by walking through the school grounds (a fenced off pathway that would need to be unlocked), around the school or around the sports centre. There is no path or road access around the buildings to the pitch. Suitable access rights and operational arrangements including for the car park would need to be agreed by the School and Skilz Academy if the CAT application is agreed. It may be

necessary to create a dedicated access route to the facility which will mean an additional cost.

- c. Management of Construction Phase – the existing pitch needs replaced regardless of whether the CAT is approved or not and this replacement will cause some disruption to the school and ANGUSalve operations during the construction phase. Additional challenges may arise from managing the contractors of an external party (Skilz Academy) under the CAT compared to Council appointed contractors.
- d. Energy Source - the electricity supply for the floodlights to the pitch is currently through Arbroath High School. The supply would need to be separated to provide independent energy and carbon accountability by Skilz Academy. This would be an additional cost to Skilz Academy to deliver their project.
- e. Changing Facilities - there are no existing changing facilities associated with the pitch. Groups using the pitch will likely expect to be able to use the sport centre or school's changing facilities. Increased footfall may put additional pressure on these facilities. This would need careful consideration and planning to ensure the safety and wellbeing of all users of facilities on these sites and may require charging to be considered. Overall management of, access to and use of the facility would need to be coordinated with ANGUSalve and the School and their arrangements and programmes with potential for disruption and conflicting requirements. Phase 3 of Skilz Academy's plan involves creation of changing and other accommodation.
- f. Community Use & Pricing – Skilz Academy are a community organisation and charity and their application indicates an intention to provide affordable access to all. Nevertheless if the CAT application is agreed neither the Council nor ANGUSalve would have any influence over pricing and access for other groups. Its possible this could be negotiated with Skilz Academy alongside schools access to the facility but this is likely to be complex.
- g. Future Development – as members will be aware the potential to reconfigure the secondary school estate in Arbroath is a possible option being considered through the Schools for the Future Programme. Although such developments are at a very early stage selling part of the existing Arbroath High School site could have major implications for future use and development of the site. The map in Appendix 1 shows how the Astroturf pitch which is the subject of the CAT application is in the centre of the site. Other potential developments on the site include athletics provision through the local club but this is uncertain.
- h. ANGUSalve Licence – it will be necessary to agree to amend the licence to occupy from the Council to ANGUSalve is the CAT is approved.

### **Financial Considerations**

6.3 Since the facility which is subject to the CAT application is an existing Council asset currently being used but requiring investment there are a number of financial considerations to take account of. These are summarised below.

#### 6.4 Financial benefits from approving CAT application

- The Council/ANGUSalve could avoid the cost of replacing the existing astroturf pitch. Estimated saving would be £220,000.
- The Council would avoid future maintenance costs for the facility and ongoing energy costs of the floodlights and associated carbon footprint.
- Even with investment in a new pitch it is by no means certain that the Council/ANGUSalve would generate sufficient income to cover those investment costs and then ongoing running costs. The risk of the facility being loss making to the Council/ANGUSalve would be removed if the CAT is approved.

#### 6.5 Financial Dis-benefits from approving CAT application

- The purchase sum offered for this asset is £100. The market value is estimated at £40,000 to £50,000 including the land. It is not unusual for CAT offers to be below market value given the community benefit which is intended and it must also be borne in mind that the applicant will need to secure significant funds to replace the existing pitch.
- ANGUSalve would lose income from use of the facility. While this is very low presently if investment in a replacement pitch was made that income forgone is likely to be more significant.
- Costs for school access may increase – at present school use is covered through a dual use agreement with ANGUSalve and covers all school use of facilities operated by ANGUSalve. Negotiations on reduction in the dual use payment and access to the new pitch through Skilz Academy would be required. Its possible this may result in a net increase in cost to the school so this is covered in the conditions in paragraph 7.4.
- It may be necessary to create a dedicated access route to the new pitch to be operated by Skilz Academy which would mean an additional cost burden to the project.

#### 6.6 Funding for Investment

- Although a bid from ANGUSalve for funding from the Council for a replacement pitch was made as part of the Council's recent capital budget setting process no funding was put in place pending the outcome of the CAT application. If the CAT is rejected the Council/ANGUSalve will need to identify funds to make the necessary investment in a replacement pitch.
- Skilz Academy – the latest version of the business plan from the group which the Council has is now a year old and its likely the Group will know the outcome of some of its funding applications (subject to the CAT being approved). One of the conditions suggested in paragraph 7.4 would require Skilz Academy to have their funding package in place before the CAT is signed off as complete.

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

- 7.1 The CATG has assessed both the CAT application and the existing 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 different which is why the assessment model scores are only intended as a guide.
- 7.2 The CAT application scores reasonably well on both the community benefit and financial assessment aspects and has been judged as likely to provide best value. The existing use for community benefit and financial assessment score slightly higher than the CAT application in part because continuing with existing use but with a new pitch would avoid some of the operational challenges and future development considerations highlighted in Section 6 above.
- 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**

**Option 2 - Agree the application subject to conditions (see paragraph 7.4 below)**

**Option 3 - Reject the application in its entirety on the basis that the existing use (with investment) is the best long term option for this asset**

7.4 Section 6 of this report highlights a number of operational issues which would arise from agreeing the CAT application. For this reason if members were minded to approve the CAT it is recommended that this be a conditional approval which is subject to the following conditions being met:-

- 1) Agreement being reached between the Council, ANGUSalive and Skilz Academy on school use arrangements and costs, i.e. so as to ensure there is no detriment or negative impact on school access and costs compared to retaining the asset;
- 2) Safe and workable plans for public access to the facility being agreed by the Council / ANGUSalive and suitable legal agreements being put in place for rights of access being established for Skilz Academy. This would cover both construction and operational phases;
- 3) Agreement being reached between the Council, ANGUSalive and Skilz Academy on access to Changing Facilities in a manner which ensures the safety and wellbeing of all users of facilities;
- 4) Agreement being reached with the Council / ANGUSalive on how Skilz Academy will ensure adequate community access and fair pricing will apply to usage of the facility;
- 5) Skilz Academy securing the full funding package required and commissioning the works to replace the existing astroturf surface and fencing to industry standards and if required provision of an access route; and
- 6) Agreement that the Skilz Academy will meet the cost of changes to the energy supply arrangements (currently through the school and will need to be separated).
- 7) Agreement being reached on any other requirements which the Council, ANGUSalive and Skilz Academy need to put in place to operate the facility in a manner which ensures compliance with relevant laws and regulations. This includes applying the Council's standard CAT terms and conditions.

7.5 The above conditions are not intended to put barriers in the way of allowing the CAT to go ahead, in fact they are the only basis upon which the Council could agree the CAT application without compromising its other responsibilities. The conditions reflect the complexity which would be associated with selling an existing asset which is located in the middle of an existing operational site and are intended to ensure we can reach an arrangement which works for the Council, Skilz Academy and public users of the various facilities on the School and Sports Centre site if the CAT application is approved.

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

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

<b>Option</b>	<b>Main Advantages</b>	<b>Main Disadvantages</b>
1	A local well-established group would be able to deliver their ambitions for the local community as outlined in their application and the Council / ANGUSalive would avoid having to make a significant investment in a new pitch	Agreeing the CAT application without any conditions would expose the Council to a significant number of operational challenges which could be difficult to overcome and could compromise the Council's ability to fulfil its other duties and responsibilities. Could also inhibit future development options
2	As option 1 above but with added benefit of avoiding or reducing the risks of operational issues (the main disadvantage of Option 1	The main disadvantages would be the loss of an existing asset, the creation of some operational challenges which would need to be overcome and the loss of control of a central part of the school site which could inhibit future development options.

3	Retains the asset in the Council's ownership providing the potential to deliver several benefits once a new pitch is installed. Avoids any risk to future development of the site being compromised	Requires a significant investment in a new pitch by the Council/ANGUSalve for which no specific budget provision currently exists. Would inhibit delivery of the ambitions of Skilz Academy and the benefits of their work
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7.7 On balance the CATG consider that Option 3 is the right option to recommend to members. CATG were mindful of the views from the Education and Lifelong Learning Service and ANGUSalve regarding the operational challenges presented by agreeing the CAT and were also concerned about the loss of control of a central part of the site and the implications of that for future development. The CATG also saw the potential for better use of the facilities from investment in a new pitch. The CATG did however recognise the significant benefits from the activities which Skilz Academy undertake and recommend that the Council and ANGUSalve continue to engage with the group and find ways to work together for the mutual benefits of our communities.

## 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 existing use option. The main points of note are as follows:-

- Sale of the asset to Skilz Academy would result in a capital receipt of £100 in comparison to the market rental of £40,000 to £50,000.
- Approval of the CAT would result in a small loss of income to ANGUSalve based on current usage but a potentially larger sum of income if the pitch was replaced. It would however avoid the Council/ANGUSalve incurring running and maintenance costs.
- Rejection of the CAT would require an investment by the Council / ANGUSalve in a new pitch at an estimated cost of £220,000. There is no specific budget provision for this cost at present so funding from capital contingency funds or delaying replacement until the 2021/22 budget is set would be required.
- Approval of the CAT would make redevelopment of the site (should that prove to be a preferred option in future) more difficult and may affect redevelopment costs

8.2 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 Skilz Academy being unable to fulfil their wider aims if the CAT is rejected. It may be possible to work more closely with the group as part of redeveloping the existing pitch to mitigate this risk but this is uncertain.
- b) There is some risk associated with a community group being sustainable over the length of the proposed lease and being able to manage and maintain the asset as intended. This risk isn't considered to be significant given the strength of the group currently but sale of the asset means the Council will no longer be responsible for it and this could be an issue because of its location if Skilz Academy ran into difficulties in future.
- c) There are a number of operational issues and risks as outlined in Section 6. Mitigation of those risks via the conditions set out in paragraph 7.4 will reduce those risks but it may not be possible to eliminate them completely in practical terms.



## **9. CONSULTATION**

9.1 The Chief Executive, Director of Education and Lifelong Learning, Director of Infrastructure 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

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### **List of Appendices:**

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

Appendix 1 – Annex A – applicant's Business Plan

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

Appendix 3 - Education and Lifelong Learning's view of application