

AGENDA ITEM NO 3

REPORT NO 24/21

ANGUS COUNCIL

POLICY & RESOURCES COMMITTEE 28 JANUARY 2021

COMMUNITY ASSET TRANSFER APPLICATION – SHOWCASE THE STREET, SEATON PARK, SEATON ROAD, ARBROATH

REPORT BY JACKIE BUCHANAN, DIRECTOR OF LEGAL & DEMOCRATIC SERVICES

ABSTRACT

This report seeks the Committee's decision on a Community Asset Transfer (CAT) application recently submitted regarding a Council asset, namely Seaton Park, Seaton Road, Arbroath.

1. RECOMMENDATIONS

1.1 It is recommended that the Committee: -

- a. notes 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. notes the summary information on the CAT application in relation to Seaton Park, Seaton Road, Arbroath contained in **Appendix 1, as provided by the applicant**;
- c. notes the other factors relevant to this CAT application including the financial implications and risks outlined in this report.
- d. notes the outcome from the assessment process and the recommendation and views of the Community Asset Transfer Group regarding this application as outlined in Sections 5.4 and 5.5 of this report.
- e. based on the information and advice contained within this report determine whether to: -
- f. (i) agree that if the application is approved this be conditional on the applicant securing the full funding package required and commissioning the works.

(ii) agree the application, on the proposed community asset transfer lease conditions and the standard CAT lease conditions set out in **Appendix 4** and (as set out in Report 105/18 and approved by Angus Council on 22 March 2018) giving clear reasons for reaching that decision (with or without amendments or conditions), which reasons may include any one or more of the following:
 - The project would help achieve the outcomes described in the Angus Community Plan in an area of high child poverty and multiple socio-economic challenges.
 - It would make a significant contribution towards improving the economic, social and physical well-being of householders in the area
 - It would be a unique additional resource in the area, bringing a wide range of community uses and benefits, and would be an asset to the town more broadly.

OR

- (iii) reject the application, giving clear reasons for such rejection, taking account of the relevant considerations as outlined in paragraph 3.3 – 3.5;
- 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 CAT policy per Report 105/18 will apply: namely, the tenants will be liable for all repairs and insurance, cannot transfer the lease or sub-let and must

- (i) use the property as agreed,
- (ii) allow public use for a reasonable charge (if any), and
- (iii) pay the Council's legal fees;

h. note that if the application is rejected, or if the application is agreed but on significantly different terms and conditions, the applicant can seek a review of that decision to the Council's CAT Decision Review Committee and ultimately appeal to Scottish Ministers.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN (LOIP) AND COUNCIL PLAN

2.1 The proposals set out in this report will contribute to the outcomes outlined in the 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 supports community groups in a manner which delivers best value.

3. BACKGROUND

3.1 The Community Empowerment (Scotland) Act 2015 ("the 2015 Act") 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 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. An Equalities Impact Assessment has been carried out (see **Appendix 5**)
- 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 as open space or disposal on the open market. There is no alternative proposal to consider being made by the Council with this CAT application, other than its current use.

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.

3.6 It should also be noted that the Council has a legal obligation to sell or lease land for the best consideration that can reasonably be obtained including in the case of a CAT transfer. This is unless such a proposed sale or lease falls within the exceptions permitted under *The Disposal of Land by Local Authorities (Scotland) Regulations 2010*. The exceptions are as follows.

- (i) If the best consideration (being either the price in a sale or total rent in a lease) is under £10,000, OR, where the difference between the best consideration and the proposed price/rent is under 25%.
- (ii) In any other case, where the Council has carried out an appraisal to consider the financial implications, benefits and disbenefits of the disposal and that the disposal is reasonable and likely to contribute to the promotion or improvement of economic development or regeneration or health; social well-being or environmental well-being. It is recommended that local authorities demonstrate that there has been a rigorous evaluation, supported by evidence that makes clear how they have reached their decision.

Elected members will be aware a rigorous evaluation process is carried out by the CATG as referred to in paragraph 3.3 above including the factors outlined in paragraph 3.6.

3.7 SEATON PARK, SEATON ROAD, ARBROATH

From 1973 until 2011 Seaton Park was the home of Arbroath Sporting Club. Founded in 1960 the club played in the Scottish junior football leagues until 2011 when the club folded. The park was a popular location for community events with the club holding weekly car boot sales from 2000 and hosting regular gala days and fundraisers. During this period the park was a hub for the community as a venue for sporting, recreational and community use.

Seaton Park is located in the Clifftown and Hayshead area in the North East area of Arbroath. The 1.8ha of land was declared as surplus to the Education department in 2011.

A stage one application for asset transfer of the land was submitted by the Clifftown and Hayshead Community Development Trust (CHCDT) in June 2013 and was approved by the CATG for progression to stage 2, under the council's earlier procedure before the 2015 Act. At the time of the application the Trust had not been fully established, since this was dependent on their submission for transfer being agreed in principle. Following the approval to proceed to stage 2, further discussions took place between CHCDT and Showcase the Street, whereby it was agreed that Showcase the Street would submit the stage 2 application on behalf of both organisations.

In 2014 Showcase the Street submitted a CAT application for the development of a new sports and community facility in Seaton Park in Arbroath. The application was approved by the Communities Committee on 18 November 2014.

Planning permission was applied for and approved in 2017 (Planning Ref 16/00074/FULL). This permission was due to expire on 31 May 2020 however due to the Scottish Government COVID legislation this will be extended to 31 March 2021.

On 3 October 2018 the application was withdrawn by Showcase the Street as they could not attract the necessary funds required to build the facility.

4. CAT APPLICATION – SHOWCASE THE STREET

4.1 Showcase the Street has since applied for a Community Asset Transfer for Seaton Park, Seaton Road, Arbroath. The group wish to lease this asset for a period of 99 years at a rent of £500 per annum. The group's application was confirmed as valid in line with the legislation on 4 August 2020. The application has been subject to public notices and has been assessed in line with the legislation and national guidance and the Council's assessment process.

The CATG carried out an assessment under *The Disposal of Land by Local Authorities (Scotland) Regulations 2010*, as set out in paragraph 3.6, and found that the proposed lease at a below market rent is reasonable and likely to contribute to the promotion or improvement of social well-being. The assessment took account of the following:

1. The plan and description in the CAT application of the site and buildings, its physical characteristics, location and surroundings.
2. The current use of the asset.
3. The best consideration (rent) that can reasonably be obtained for the asset, £1,800, as assessed by the council's Team Leader – Estates, a member of the Royal Institution of Chartered Surveyors, on 14 December 2020.
4. Details of the key terms of the proposal and the Council's standard CAT lease conditions.
5. Details about the community group, its aims and objectives, governance structure, funding and its charitable status.
6. An outline of what the community group intends to do with the asset and whether there has been involvement of local people.
7. A copy of the most recent accounts or other evidence that the community group is financially able to maintain the leased asset.
8. Details of how the lease at less than best consideration (rent) that can reasonably be obtained, will contribute to one or more of the purposes set out in Regulation 4(2) of the Regulations.
9. An indication of the local demand for the services provided by the community group and details of any known opposition or support for the proposal and the measures (if applicable) which the Council might take to deal with the opposition.
10. Confirmation the proposed lease complies with the European Commission's State aid rules.

5.2 Details and evidence of support is detailed in **Appendix 3**. No letters of objection were received following public consultation.

5.3 A summary of the application and details of the applicant's proposals for the asset they are seeking to take on through CAT is attached as **Appendix 1**. In broad terms the group propose to develop a Virtual Reality and Technology Centre inside a new community facility with a 3G playing surface made from recycled materials.

5.4 The application has been assessed by the CAT Officer Group on 17 November 2020 using the Council's agreed assessment model. The application scored as follows: -

Community Benefit (score out of 90)	71.8
Financial Assessment (score out of 52)	32.3
Overall Assessment/ Best Value Conclusion	likely to represent best value

5.5 Based on the above assessment the CAT group recommendation is to **approve** the CAT application based on the following reasons:

- The project would help achieve the outcomes described in the Angus Community Plan in an area of high child poverty and multiple socio-economic challenges.
- It would make a significant contribution towards improving the economic, social and physical well-being of householders in the area
- It would be a unique additional resource in the area, bringing a wide range of community uses and benefits, and would be an asset to the town more broadly

Members are however reminded in line with Report 105/18, it is for the Committee to make the final determination on whether the application is approved or rejected. Members may approve the application with amendments or additional 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.

5.6 Other factors to consider in this application include:

- the proposed CAT lease conditions in **Appendix 4** have been shared with Showcase the Street. The group have confirmed there are no issues with the conditions.
- The group is not requesting any additional rights in terms of the application.
- Showcase the Street also indicated
 - that grant funding of £40,000 has been secured from Zero Waste Scotland. A local architect is now undertaking a feasibility study and Quantity Surveyor report based on the nature of the build and its use of recycled materials, that runs from December 2020 to March 2021.
 - they have been invited to apply for up to £250,000 of postcode lottery funding due to nature of project.
 - the application has significant backing from other parties allowing a great deal of costs to be met by in-kind support through construction and other industries.

The group have produced a Business Plan in support of their application (see **Appendix 2**). The group have indicated that the ambitions in the business plan to meet training support within the facility, for the renewables and technology sector, also meets the recently announced Scottish Government ambitions in their newly launched strategy, Protecting Scotland, Renewing Scotland: The Government's Programme for Scotland 2020-2021.

6. FINANCIAL IMPLICATIONS

6.1 The financial impact on the Council has been considered in the assessment of the application. The main points of note are as follows: -

- a. approving the CAT application would result in income of £500 per annum in comparison to an annual market rental value of £1,800. However, as mentioned in paragraph 4.1 the CATG's assessment under *The Disposal of Land by Local Authorities (Scotland) Regulations 2010* found that the proposed lease at a below market rent is reasonable and likely to contribute to the promotion or improvement of social well-being.
- b. The last independent valuation obtained by Angus Council for the site was in 2013 and this was £200,000. The Team Leader (Estates) has looked at recent comparables and is of the view that for a site of this nature which is currently open space, with planning consent for a sports facility but potential also for other uses, that a value of £200,000 would still be a reasonable estimate of the current value. The possibility of generating a capital receipt from sale of this land at some future point would be removed if the CAT lease is agreed.
- c. If the CAT application is approved Angus Council would have no ongoing repair and maintenance during the period of the lease. These costs amount to approximately £3,000 p.a. at present for the Council.
- d. Rejection of the CAT would result in the potential loss of a facility who's build, and design would provide a great focus on Arbroath and the wider Angus area and also attract many visitors.

7. RISKS

7.1 The following risks are relevant to this application: -

- a. Failure by the Showcase the Street to secure the necessary funding
- b. community group being sustainable over the length of the proposed lease.
- c. If, as a result of failure to secure the necessary funding or to be sustainable, they failed to comply with the lease conditions the council might require to consider ending the lease and decide whether to complete the facility.

8. CONSULTATION

8.1 As required under CAT legislation, and as mentioned in paragraph 5.2, a public consultation was carried out.

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 - A summary of the CAT application and the applicant's proposals

Appendix 2 - Business Plan

Appendix 3 - Supporting Emails (referred to in 5.2)

Appendix 4 - Angus Council Standard CAT Lease Conditions & Proposed CAT Lease Conditions

Appendix 5 - Equalities Impact Assessment