

**ANGUS COUNCIL**

**POLICY & RESOURCES COMMITTEE – 8 JUNE 2021**

**COMMUNITY ASSET TRANSFER APPLICATION – PANMURE CENTRE, CARNOUSTIE**

**REPORT BY JACKIE BUCHANAN, DIRECTOR OF LEGAL & DEMOCRATIC SERVICES**

**ABSTRACT**

This report seeks the Committee's decision on a Community Asset Transfer (CAT) application by Carnoustie & Monifieth Men's Shed to lease the Panmure Centre, 114 Kinloch Road, Carnoustie.

**1. RECOMMENDATION**

**1.1** It is recommended that the Committee:

- a. notes the contents of the report 260/20 to the Policy & Resources Committee of 27 October 2020
- b. notes that on 27 October 2020 the Policy & Resources Committee deferred the determination of the CAT application to allow the Men's Shed to have further discussions with other community groups regarding their proposed lease of the Panmure Centre.
- c. 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
- d. notes the summary information on the CAT application in relation to the Panmure Centre, 114 Kinloch Street, Carnoustie contained in Appendix 1
- e. notes the further information provided by the applicants, Carnoustie & Monifieth Men's Shed at Appendix 2
- f. notes the other factors relevant to this CAT application including the financial implications and risks outlined in this report
- g. notes the outcome of the assessment process and the recommendation and views of the Community Asset Transfer Officer Group as outlined in Sections 5.3 and 5.10. of this report
- h. based on the information and advice contained within this report determine whether to:-
  - (i) agree the application, subject to the additional information, on the proposed community asset transfer lease conditions set out in Appendix 4, giving clear reasons for reaching that decision (with or without amendments or conditions);  
**OR**
  - (ii) reject the application, giving clear reasons for such rejection;
- i. notes that if the application is approved it will be necessary to conclude formal legal agreements before the transfer formally takes place, and if the application is approved:
  - (i) agrees that the terms and conditions of such formal legal agreements will be in line with the Council's agreed CAT policy per Report 105/18 as outlined in (ii) below, subject to the exceptions mentioned in (iii) below;
  - (ii) notes the Council's agreed CAT policy per Report 105/18 provides that tenants will be liable for all repairs and insurance, cannot transfer the lease or sub-let and must (a) use the property as agreed, (b) allow public use for a reasonable charge (if any), and (c) pay the Council's legal fees;

(iii) notes the proposed exceptions to the Council's agreed CAT policy per Report 105/18 are that the Men's Shed would be permitted:-

- i. to sub-let part of the premises to other community groups, with the Council's prior written consent and would also be able to hire out space to other community groups on reasonable terms, which terms would require to be approved by the Council in advance.
  - ii. to transfer the lease to another Community Transfer Body (as defined in the Act) subject to the prior written approval of the Council which approval would include being subject to that Body having full funding in place for the future maintenance and improvement of the property.
- j. notes 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 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
- 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. In this case the alternative proposal would be 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.

- 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.

As elected members are aware a rigorous evaluation process is carried out by the CATG as referred to in paragraph 3.2 above including the factors outlined in paragraph 3.3.

#### 4. CURRENT POSITION

- 4.1 The Panmure Centre was identified as surplus as part of the Transforming Angus: Agile Working and Estates Review report 480/15. Prior to that it was used as a community education and development centre and a nursery. In report 46/17 Appendix 2 the Exit Strategy for the property when it became surplus (then estimated as March 2020) was for “Commercial Sale” which was “dependent upon the establishing of a new location for the Early years provision which is currently delivered from this location”.
- 4.2 Following completion and opening of the new Early Learning Childcare Centre at Pitskelly Road, Carnoustie the property is now vacant.
- 4.3 Stewart Ball, who retired as Director of Communities on 30 March 2021, chaired 2 meetings with the Carnoustie & Monifieth Men’s Shed and the Carnoustie Community Development Trust. Following these discussions, it was agreed that a building survey be instructed by Angus Council at a cost of £3,300 met from Participatory Budgeting funding.
- 4.4 The survey was carried out on 15 February 2021 by Hardies Property & Construction Consultants and the resulting Primary Defects Report (Appendix 3), which has been shared with the applicants, identified remedial works costing an estimated £166,000.

#### 5. CAT APPLICATION – CARNOUSTIE & MONIFIETH MEN’S SHED

##### ORIGINAL APPLICATION

- 5.1 Carnoustie & Monifieth Men’s shed applied for a Community Asset Transfer for The Panmure Centre, 141 Kinloch Street, Carnoustie. The original application was to lease the asset for a period of 10 years at a rent of £1,500 per annum.
- 5.2 The group had originally planned a 5-year progressive programme of improvement of the property with projected Capital expenditure of £70,000 per annum.
- 5.3 The application was assessed by the CAT Officer Group using the Council’s agreed assessment model. The application was scored as follows: -

Community Benefit (score out of 90)	58
Financial Assessment (score out of 52)	22
Overall Assessment/ Best Value Conclusion	likely to represent best value

- 5.4 Based on the above assessment the CAT group recommended approval of the CAT application based on the following reasons:

- A lease enables the council to retain the building should the group's circumstances change in the future.
- A 10 year lease would also allow the future sale of the asset. The group could achieve very good outcomes for the community if they had a suitable base both in terms of mental health improvements and with the physical help they can provide to individuals and third sector groups.
- This would be a good use of a much-liked landmark building in Carnoustie. Whilst the general fund would receive annual below market rent of just £1,500 per annum, this is counter-balanced by the mental health / community benefits that could be delivered which has considerable value to the public purse.

## ADDITIONAL INFORMATION

5.5 Following the survey and further discussions Carnoustie & Monifieth Men's Shed have submitted further information in relation to their application (Appendix 2)

5.6 The updated proposal is for a 25 year lease with a 3 year break clause. The Men's shed now see the project as being split into 3 phases: -

- Phase 1: Survey (now completed).
- Phase 2: a viability appraisal allowing further investigation reports as suggested in the survey; further consultation with other interested parties regarding the long term management of the building and a funding search for appropriate sources to upgrade the building
- Phase 3: long term development; this would only go ahead subject to all factors in Phase 2 confirming the viability of the project

A 3-year break clause would allow the Men's Shed to terminate the lease before Phase 3 should they wish.

5.7 The Men's Shed have stated that "it is neither possible nor desirable for the Shed to take on the long-term management of the Centre".

5.8 For Phase 3 to proceed the Men's Shed see the formation of an organization with a collective interest in using and maintaining the Panmure Centre as vital. They have made preliminary contact with a number of local groups, but now need to consult further as to what usage such groups would propose to make of the building, and towards formalizing these into a constituted organization.

5.9 In line with the Council's agreed CAT policy per Report 105/18 tenants under a CAT lease cannot sub-let or transfer the lease to another organization. Phase 3 would require a variation of these terms.

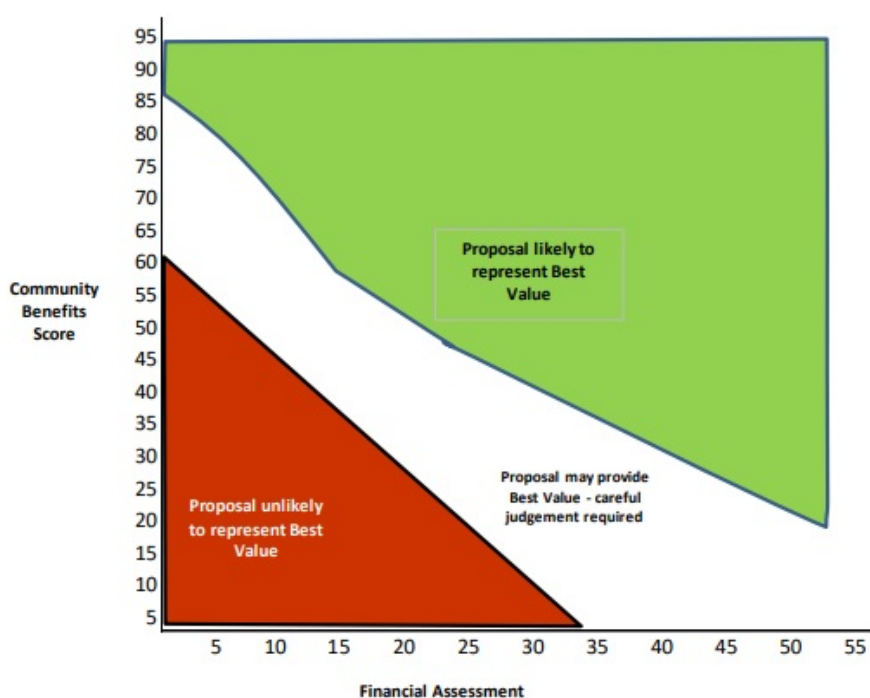
5.10 The Community Asset Transfer Group reassessed the application following receipt of the additional information. The application now scores as follows: -

Community Benefit (score out of 90)	50
Financial Assessment (score out of 52)	20
Overall Assessment/ Best Value Conclusion	Proposal may provide Best Value – careful judgement required.

5.11 Based on the above assessment, whilst some members of the CAT group recommended refusal, overall, the CAT group recommended approval of the CAT application based on the following reasons:

- A 3yr break clause will allow time to assess sustainability in terms of partner organisations joining with Men's Shed.
- The potential community outcomes for the project remain valid

5.12 the overall assessments above have been made in line with the assessment graph included in report 105/18 :-



Using the assessment graph above gives the CATG and ultimately councillors a consistent and fair means of assessing both the non-financial and financial aspects of CAT applications in a manner which is consistent with best value requirements, takes account of Scottish Government guidance and allows judgements to be made.

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.

5.13 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, as assessed by the council's Team Leader – Estates, a member of the Royal Institution of Chartered Surveyors and an RICS Registered Valuer on 3 July 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. The options appraisal and cost benefit analysis carried out by the CATG, referred to in paragraphs 5.4 and 5.11, any alternative use for the asset and report 480/15, which identified it as surplus.

9. 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.
10. 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.
11. Confirmation the proposed lease complies with the European Commission's State aid rules

## **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 £1,500 per annum in comparison to an annual market rental value of £15,000. However, as mentioned in paragraph 5.12 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) If the CAT application is approved Angus Council would have no ongoing repair and maintenance during the period of the lease.
- c) Approving the CAT would mean that business rates would no longer be payable by the Council.
- d) Rejection of the CAT would allow the site to be marketed for sale generating a capital receipt for the General Fund in the region of £100,000 to £125,000. Approval of the CAT would mean that capital receipt no longer being achieved at least for the period of the lease. Angus Council would have no ongoing repair and maintenance and business rates would no longer be payable by the Council once the property is leased.

## **7. RISKS**

7.1 The following risks are relevant to this application:-

- a) There is a risk of the Carnoustie and Monifieth Men's Shed being unable to find alternative premises if the CAT is rejected and this may harm the group's objectives and the benefits they bring to their members and the wider community.
- b) There is a 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 tenant so that it can be returned to the Council in appropriate condition at the end of the lease.
- c) Failure by the Carnoustie & Monifieth Men's Shed to harness the community involvement required to proceed to Phase 3 and to secure the long term future of the building.
- d) The property being returned to the Council at the end of year 3.

## **8. EQUALITY IMPACT ASSESSMENT**

An Equality Impact Assessment is not required as there is no negative impact on any of the protected characteristic groups.

## **9. CONSULTATION**

9.1 As required under CAT legislation 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
- Report 260/20 – Community Asset Transfer Applications – Carnoustie & Monifieth Men's Shed

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List of Appendices:

Appendix 1 - A summary of the CAT application and the applicant's original proposals

Appendix 2 - Additional Information from the CAT applicant

Appendix 3 - Primary Defects Report outlining condition of the property and costs of repair

Appendix 4 - Proposed CAT Lease Conditions