

Agenda Item	16
Report No	EDI/77/18

HIGHLAND COUNCIL

Committee: Environment, Development and Infrastructure

Date: 8 November 2018

Report Title: Community Asset Transfer - Review

Report By: Director of Development and Infrastructure

1. Purpose/Executive Summary

- 1.1 This report updates Members on progress to review and improve our approach to community asset transfer (CAT). It assesses how the process is working for communities and the Council. It highlights a range of issues that are key to improving the process by making it accessible and understandable to communities as well as ensuring the process is efficient and effective for the Council.
- 1.2 Some of the issues highlighted will require further work by officers from across the Council, partnership working with external agencies to ensure we improve our approach to community asset transfer and meet our legal obligations under the Community Empowerment Act (Scotland) 2015 and our corporate priorities.
- 1.3 In addition, there is a specific need to revisit our governance around community asset transfer requests. The report recommends minor alterations to decision making and the statutory review process available to community bodies.

2. Recommendations

- 2.1 Members are asked to:
 - consider the issues identified through the community asset transfer review;
 - note the work undertaken and underway way to address the issues raised through the review;
 - agree both community asset transfer requests recommended for approval, and those recommended for refusal are considered by Environment, Development and Infrastructure Committee; and
 - note the proposal to increase the Members' Review Panel membership from 5 Members to 9 Members.

3. Background-Community Empowerment Act – Community Asset Transfer

- 3.1 The Community Empowerment (Scotland) Act 2015 seeks to empower communities by giving them control over assets in their communities so that they are enabled to drive change and achieve their goals.
- 3.2 The Act moved asset transfer from a voluntary approach by public bodies to one which introduces a right for community bodies to make requests for ownership, lease, management or use of publicly owned buildings or land whether or not they are available for sale or deemed surplus to requirements by the owning body.
- 3.3 The Act sets out a defined process for community asset transfer, including key timescales and a process for review. The Act requires those public authorities to assess requests transparently against a specified list of criteria, with a strong focus on community benefit, and to agree the request unless there are reasonable grounds for refusal. This shifts the balance of power clearly towards the community body.
- 3.4 The Council agreed its Community Asset Transfer (CAT) process in December 2016, in advance of the new duties commencing on 29 January 2017. Full details of the process can be found at https://www.highland.gov.uk/info/591/council_and_government/726/community_asset_transfer
- 3.5 The Council's process includes an expression of interest phase to allow groups to identify an asset in their community and begin to liaise with the Council on a potential transfer. Once a full CAT has been received the Council has 6 months to assess and either agree to or decline the application. If refused, groups have the right to request a review of the decision. The review panel will be drawn from Corporate Resources Committee and the process for review was agreed in April 2018.

4 Scope of the Review of Community Asset Transfer

- 4.1 In agreeing its approach to community asset transfer the Council also agreed that a review of how the process was working both for communities and the Council should take place a year into operation.
- 4.2 Over the first year, a number of issues emerged that require consideration as part of the review. These include:
- 4.2.1 Support for communities:
- how we and partners engage and support community bodies to undertake asset transfer;
 - assisting communities to present asset transfer requests that are complete, with supporting documentation and evidence that allows a robust evaluation of requests to be undertaken;
 - assisting communities to develop a view of future community infrastructure needs that take a holistic view of facilities in communities irrespective of management/ownership arrangements; and
 - communities have a clear, well planned approach to sustaining assets under their control.
- 4.2.2 Costs and Assets:
- how the costs of transfer are met and by whom - legal and property;
 - how the costs associated with individual properties are captured, and a view

- formed of the relative cost and value of transfers and future potential savings;
- the relative value of capital receipts versus future savings; and
- taking a strategic and proactive approach to the Council's property and assets and ensuring transferring assets to communities forms part of this approach e.g. particular property types.

4.2.3 In addition it is timely to consider how the process is working in terms of:

- the Council's ability to effectively and efficiently manage CAT requests and enquiries;
- Members having the necessary support and knowledge to help communities engage with community asset transfer; and
- assisting with developing the Council's approach to current community use of Council assets.

4.3 The review of the community asset transfer process had two key strands: a review of the process and a review of the governance:

4.3.1 CAT process review:

- **Engagement with internal contributors** - staff groups from across the Council in order to understand how the process is operating internally
- **Engagement with community bodies** – community bodies who have either submitted an expression of interest or a full CAT in order to understand their experience of the process
- **A LEAN review** – in order to understand whether there are elements of the process that could be streamlined or improved.

4.3.2 CAT governance review:

- **A review of the governance** arrangements in place in order to determine whether the governance oversight in place was proportionate and effective to deal with CATs

5 Community Asset Transfer – Process Review

5.1 Review with Internal Contributors

This aspect of the review included officers working in specialist services such as policy, property or finance, staff from delivery services e.g. Community Services, and staff involved in supporting communities e.g. Ward Managers. Feedback was sought from this group of officers through a survey approach which considered:

- How well staff felt supported
- How important they felt CAT was to the Council
- How clear they were about their role in CAT
- How much input they require to make
- To what extent they felt other stakeholders understand the CAT process
- How they rated the CAT process

5.2 The number of staff involved in CAT is small and depending on their role, geographic location and the nature of each specific CAT, staff will have had differing levels of involvement in the process. There are however some clear indications from their feedback on their understanding of CAT and how they are engaging in the process:

- staff are clear that the process is important to the Council;
- the process is necessitating collaboration across services and staff roles. There are opportunities to develop this further;
- staff understanding of the process and their role within it is developing as

involvement increases but not everyone across the organisation is clear about CAT; and

- the time commitment required is variable depending upon each individual CAT application and the level of support and capacity within different communities.

5.3 The survey with internal staff highlighted the need to:

- better promote the CAT process across the organisation and officers' roles within the process;
- seek opportunities to encourage and support greater collaborative working on CATs; and
- review the support required for officers to support CAT.

6 Review with Community Bodies

6.1 This aspect of the review sought feedback from community bodies that had expressed an interest in CAT, had submitted a full CAT application or were working on developing a CAT application. 25 groups were contacted with 11 responding and 4 providing detailed feedback through a telephone interview. Views were sought on

- how they had found dealing with the Council's CAT process;
- how useful a 2 stage CAT process is;
- could they get access to the information they required;
- could they get the support they required; and
- how their plans were progressing.

6.2 Community bodies were generally satisfied with their experience of CAT. It was clear that for many, progressing their CAT application was 'work in progress', however they were receiving support both from within the Council and from support organisations such as the Development Trusts Association.

6.3 Feedback from groups highlighted that:

- they understood that the Expression of Interest stage was only in order to establish contact;
- they understood that in order to progress their project they would have to submit a full ATR form, when ready;
- organising and completing the work needed for an ATR required time and therefore the 'time-lag' identified between EOIs and ATRs may not be as pertinent as first thought; and
- they were making progress with projects by way of consulting with Ward Managers and contacts from DTAS/COSS.

6.4 More detailed feedback from the telephone interviews highlighted:

- experience - The groups who were contacted by telephone were very positive about their experience of the CAT process. In particular, support from the Council was highlighted as being very good;
- time expectations – views were mixed with some expressing that the process was longer than anticipated whilst others that it was quicker than expected; and
- clarity of process – there were mixed views, with some clear about the expectations on them as groups whilst others felt that they were unclear about the information they were required to submit.

6.5 The feedback from groups highlighted the need to:

- be clearer with groups about the time required for different points in the CAT process;
- support groups to understand the information required of them in order to effectively submit a CAT; and
- need to seek feedback from groups at different points in the CAT process in order to support them to progress.

7 LEAN Review

7.1 LEAN is a business process that utilises a collaborative team effort to reduce waste in a process and improve its operation making it more effective and efficient. The LEAN process starts off with identifying the range of contributors to an area of work that is in scope for LEAN. A 'Problem Statement' is then developed that attempts to summarise the current position and allow the team of contributors to begin to see where issues lie and the potential solutions to them.

7.2 The LEAN Review of the Community Asset Transfer (CAT) process aimed to streamline the internal procedure, in line with the Community Empowerment Act legislation. The desired outcomes of the Review were:

1. A clear pathway to CAT that is promoted and understood by community bodies, Council Staff, Elected Members and Partners
2. Clarity in roles and efficient and effective processes in place for the Council to transfer assets to communities
3. Responding well to asset transfer requests and promoting asset transfer to communities
4. Support for the Council's Asset Management Plan and the Council's developing localism agenda
5. Insight for the job roles, definitions and cross-service collaboration in the function reviews of both property and ward management
6. To be clear how and where The Council is providing ongoing support to communities through reduced rental or lease terms for property and that this support is regularly reviewed and linked to our priorities and outcomes.

8 CAT Process Review – Next Steps

8.1 The various strands of review activity have given a useful insight into areas of the CAT process that require further development.

8.2 **Community groups** are well engaged in the process but require further support and guidance around understanding the process, timescales, and developing their applications.

8.3 **Members and Staff groups**-Members and staff from across the Council are engaged in CAT. They however approach the process from differing professional and community perspectives and experiences of CAT. It will be necessary to increase levels of awareness of the process, review support available to them and ensure staff work collaboratively and effectively to progress CAT applications

8.4 The following areas of development work are suggested:

- a SharePoint Solution-implement a SharePoint site to enable more effective

- sharing of data between staff groups and services;
- develop an online form for groups to submit requests ensuring all the required information is captured first time;
- manage the expression of interest stage so that we regularly review if a request is still “live”;
- ensure all requests are directed to the Council website to ensure that groups are aware of process and support;
- make awareness training available for staff and Members;
- work to increase legal capacity to ensure processes can take place to expedite requests; and
- work to capture costs and benefits of historical leases, forthcoming CATs and capital receipts versus revenue savings.

9 Community Asset Transfer Decisions – Governance Review

- 9.1 It is important that our governance of CATs is fit for purpose in terms of:
- meeting our legal obligations under the Community Empowerment Act (Scotland) 2015;
 - ensuring the Council makes decisions that are supported by robust evaluation around outcomes and benefits; and
 - being accessible to communities.
- 9.2 This section of the review was supported by officers from Committee and Legal services. Two key areas were identified as weak and would benefit for improvement:
- dealing with refusals; and
 - membership of the review panel.
- 9.3 Dealing with Refusals
- 9.3.1 All community asset transfer requests are considered by the Asset Management Property Board. This is an officer board comprised of officers from Corporate Finance, Legal, Policy, Community Services, Development and Infrastructure and Care and Learning .Currently community asset transfer requests CAT) recommended for approval by the Asset Management Project Board (AMPB) are considered by this committee. Those recommended for refusal by AMPB do not come to Committee for consideration.
- 9.3.2 There is a potential weakness in this approach in that:
- there is an inconsistency in how approvals/refusal are treated and this could create a lack of scrutiny and integrity in the process; and
 - Committee does not maintain an overview of CAT requests only seeing approvals.
- 9.3.3 It is therefore recommended that a change is made to the governance arrangements for CAT where all decisions are considered by this committee.
- 9.4 Membership of the review panel
- 9.4.1 When requests are refused, community groups have the right to request a review. This is required under legislation to be considered by a panel of members who were not involved in the original decision. For the Council, it was agreed that this panel would be drawn from Corporate Resources Committee membership.
- 9.4.2 The current arrangements for a Member Review Panel to deal with statutory requests for review of a CAT decision set the number at **5 Members**. It is felt that this is too low

and that to have a robust process and ensure quorate panels, that this should be increased to **9 Members**. A report to Corporate Resources Committee will be required to enable this change.

10 Implications

- 10.1 **Resource:** There is no new or additional funding to support the management of asset transfer requests therefore this must be managed within existing resources. This includes staff time to support and undertake the assessments associated with asset transfer and creating and supporting a review process. It will therefore be important to give careful consideration on how the costs associated with transfer are dealt with. The review activity and work streams are helping to ensure that our processes for supporting CAT are as efficient and effective as possible.
- 10.2 **Legal:** The guidance on community asset transfer sets out how the Government intends public bodies to meet the duties contained within the Community Empowerment Act.
- 10.3 **Community (Equality, Poverty and Rural):** It is likely that more vulnerable communities will require additional support to consider asset transfers. It will be important to signpost groups to organisations who can provide this support.
- 10.4 **Climate Change / Carbon Clever** None identified at this time.
- 10.5 **Risk:** There is a risk that the Council does not comply with the legislation however by establishing a robust approach to asset transfer which builds in the legislative requirements, this should mitigate this risk.
- 10.6 **Gaelic:** None

Designation: Director of Development and Infrastructure

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