

To: Community Asset Transfer Request Review Sub-Committee

On: 26 April 2021

Report by: Director of Finance and Resources

Heading: Review Request by Up-2-Us Ltd. Re: Barnbrock Farm, nr. Lochwinnoch

1. Summary

- 1.1 The Community Empowerment (Scotland) Act 2015 includes provisions enabling community bodies to apply to the Council to take over Council owned land and facilities. This is referred to in the Act as an Asset Transfer Request. The Council is required to deal with Asset Transfer requests in a manner set out in the Act and following procedures established in Regulations.
- 1.2 The Council has received a request for a review of a decision by the Head of Property Services to refuse an Asset Transfer Request by Up-2-Us Ltd in respect of their application for the transfer of Barnbrock Farm.
- 1.3 The Sub-Committee has been appointed to decide the review. This report invites the Sub-Committee to do so by, in the first instance, determining whether further procedure is required. If no further procedure is required, it invites the Sub-Committee to determine the review.
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2. **Recommendations**

2.1 The Sub-Committee is asked to:

- a) note the terms of the review request and decide whether further procedure is required in the form of written representations and/or a hearing;
- b) if no further procedure is required, to determine the review.

3. **Background**

3.1 Part 5 of the Community Empowerment (Scotland) Act 2015 gives an organisation which meets the statutory criteria to be a “community transfer body” the right to apply to take over property owned by the Council. These applications are known as Asset Transfers Requests.

3.2 Up-2-Us Ltd. made an Asset Transfer Request in relation to Barnbrock Farm near Lochwinnoch (formerly the offices of Clyde Muirshield Park). That request was dealt with in terms of the Council’s procedure and a decision refusing the request was issued by the Head of Property Services on 13 January 2021.

3.3 In terms of the relevant legislation, an applicant whose request is refused is entitled to a review of that decision. At its meeting on 24 March 2021, the Infrastructure Land and Environment Policy Board appointed this Sub-Committee to undertake the review and agreed the detailed procedure by which it would do so.

3.4 In the first instance, the Sub-Committee is required to decide whether it requires further information to make its decision. The content of the papers at this preliminary stage is determined by Regulations; but, should the Sub-Committee consider that further written information is required from the applicants and/ or Property Services, it may ask for these to be provided. It may also decide to fix a hearing. If further procedure is required, the Sub-Committee should be clear as to which

specific questions it wishes to be addressed on via that procedure and who will be responsible for providing any written information requested.

- 3.5 Members should note that as a preliminary issue, the Sub-Committee requires to be satisfied that Up-2-Us meets the full criteria to be considered as a “community transfer body”. If it is not fully satisfied in relation to that point, the Sub-Committee may wish to request that the applicant provide further written submissions to demonstrate why it considers it does meet those criteria.
- 3.6 If further procedure is required, the Sub-Committee will adjourn to allow such steps as are necessary to take place and re-convene to consider the application further thereafter.
- 3.7 The Council must reach a decision on the review within 6 months of the date of receipt of the request for a review. The request for review was received on 10 February 2021, which means that the deadline for deciding the review is 9 August 2021.
- 3.8 The applicant has a further right of appeal to the Scottish Ministers if they remain unhappy with the decision of the Sub-Committee.

Implications of the Report

1. Financial – The Asset transfer request if successful will involve the transfer of council property to a community body for a sum of money.

2. HR & Organisational Development – n/a

3. Community/Council Planning – There are no implication for community/Council planning arising directly from this report.

4. Legal – The Council is legally required to make a decision in relation to the request by 9 August 2021.

5. Property/Assets- If the Asset transfer is approved, the property at Barnbrock Farm will be transferred out of the Council's ownership.

6. Information Technology- n/a

7. Equality & Human Rights -

(a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report, as it concerns a review request in relation to a specific application.

8. Health & Safety – n/a

9. Procurement – n/a

10. Risk- n/a

11. Privacy Impact – n/a

12. Cosla Policy Position – n/a

13. Climate Risk- None

List of Background Papers

- (a) Review Documents.
- (b) Copy of Community Asset Transfer Review Procedure

(c) General advice on the law relating to community asset transfer requests.

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