

**To: Community Asset Transfer Request Review Sub-Committee**

**On: 18 June 2021**

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**Report by: Director of Finance and Resources**

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

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**1. Summary**

- 1.1 This is a supplementary report to the report submitted to the previous meeting of this sub-committee on 26 April 2021 (Appendix 1).
  - 1.2 In response to the Sub-Committee's request for further information, the Head of Property Services submitted further information on the reasons for his decision to refuse the application at first instance.
  - 1.3 Up-2-Us Ltd. has not responded to the request for further information, or to the information provided by the Head of Property Services.
  - 1.4 A question as to Up-2-Us Ltd.'s eligibility to make requests of this type has been raised.
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## 2. **Recommendations**

2.1 The Sub-Committee is asked to:

- a) note the terms of the review request and the further information received 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.

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## 3. **Background**

3.1 At the last meeting of the Community Asset Transfer Request Review Sub-Committee, it determined that further information was required from the Head of Property Services and the applicants to inform its decision on the appeal. Formal notice of the requirement was given on 6 May 2021 (a copy of the notification is contained in the agenda papers).

3.2 The Head of Property Services responded to the request and that response was forwarded to Up-2-Us Ltd. for comment on 20 May 2021. That response is included in the agenda papers.

3.3. Up-2-Us Ltd. has not responded to the request or to the Head of Property Services' representations.

3.4 The Head of Property Services has raised the issue of whether or not Up-2-Us Ltd fits the definition of a 'community transfer body'. As noted in the previous report and in the general legal advice note, a body must meet this definition in order to make an asset transfer request. Although Up-2-Us Ltd appears to have charitable status, it is not a Scottish charitable incorporated organisation, which is the specific type of charitable body that may be a community transfer body. There is in any event no evidence that its constitution meets the requirements laid down in legislation. In particular, there is no evidence that Up-2-Us Ltd is linked to a specific community and that that community has representation in its membership.

- 3.5 The Sub-Committee can refuse the application if it does not consider that the applicant meets the definition of a community transfer body. Alternatively, the Head of Property Services has suggested that, if the Sub-Committee is otherwise minded to grant the application, the decision could be made conditional on Up-2-Us Ltd providing evidence of status as a community transfer body.
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## **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**

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**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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**Author:** Nairn Young- Assistant Managing Solicitor (Litigation and Advice)  
Tel: 07483 390908