

To: Council

On: 29 September 2022

Report by: Chief Executive

Heading: Community Asset Transfer – options for revised procedure

1. Summary

- 1.1 The purpose of this report is to meet a commitment offered at the ILE Board in August 2022 to set out a series of options for members to consider in terms of revising the Council's current approach to reaching decisions on applications for asset transfer from community bodies (a process known as Community Asset Transfer; CAT).
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2. Recommendations

- 2.1 It is recommended that Council:
- i) Consider and agree a preferred option for determining future Community Asset Transfer applications to Renfrewshire Council;
 - ii) Authorise the Head of Corporate Governance to make changes to the Council's governance documents necessary to give effect to the Council's decision;
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3. Background

- 3.1 In August 2022 the ILE Board considered a report on clarifications to the procedure for dealing with Community Asset Transfer (CAT) applications received by the Council.

A commitment was given in that report to bring a report back to the next meeting of the Full Council outlining some options for members to consider in terms of how future applications are dealt with.

- 3.2 At its meeting on 23 February 2017 Council established a process for dealing with decisions on CAT applications. It was agreed that the decision on such applications would be delegated to the Head of Property Services to determine. It was further agreed that the Community Asset Transfer Review Sub-committee of the ILE Board would be established to consider any application for a review of such an application.
- 3.3 Following an internal restructure, the delegation to determine such applications passed to the Head of Economy and Development.
- 3.4 The Community Empowerment (Scotland) Act 2015 makes clear that applicants to local authorities for CAT must have the ability to request a review of any decision on their application. This review must be undertaken by the local authority within 6 months of receiving such a request.
- 3.5 The Act provides a further level of appeal to the Scottish Ministers if they remain dissatisfied with the outcome of the review process.
- 3.6 As set out above, the Council's Scheme of Delegation provides that such a review will be undertaken by the Community Asset Transfer Review Sub-committee. This Sub-committee comprises any 5 members of the Infrastructure, Land and Environment Policy Board, provided 3 are from the Administration and 2 from the opposition groups or parties. The Sub-committee is chaired by either the Convener or Depute Convener of the ILE Board.

4. Options for future CAT applications

- 4.1 In recent months several elected members have raised questions as to whether the delegation of decisions on CAT applications to officers is the optimum approach for the Council. The existing arrangements having been in place for more than five years, it is now appropriate to review the CAT application decision making process.
- 4.2 Council could choose to retain the existing arrangements whereby officers make the decision on applications under delegated powers (Option 1 set out below). Alternatively, Council could choose to remove the delegation to officers and have all CAT applications considered by Elected Members. Should this be the view of Council, it would be necessary to decide the forum where such decisions would be taken and where the internal review decision required by the Act would be taken. Option 2 below sets out a proposed decision making process.

Option 1

- 4.3 Council retains the existing process with decisions continuing to be delegated to officers, with any reviews sought by applicants being considered by Elected Members at the Community Asset Transfer Review Sub-committee. This is the approach the Council has adopted for the last 6+ years since the CAT legislation was enacted in Scotland.

Option 2

- 4.4 Council removes the existing delegation to officers and all CAT applications are considered by Elected Members. The terms of reference of the existing Sub-Committee of the ILE Board would be amended to become the decision making forum for CAT applications. The Sub-committee would retain its existing membership.
- 4.5 Applications would continue to be received and subject to an initial assessment process by Council officers. Officers would then submit a report on the application to the Sub-Committee who would make the final determination of the application.
- 4.6 In line with the legislative requirements set out above, the reviews by any applicant wishing to challenge the Sub-committee's decision would be considered by the Council's established Appeals Board which operates appeals for a variety of circumstances. The members of such panels are drawn from a pool of all 43 Members. The membership of panel would exclude any Members of the ILE Sub-Committee involved in reaching a decision on the same application.
- 4.7 Any Member considering an application at either the Sub-Committee or Appeals Board should have regard to the Code of Conduct for Councillors and the guidance of quasi-judicial decision making.
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5. Existing CAT applications

- 5.1 Should members decide to revise the Scheme of Delegation it is suggested that the new process would apply to CAT applications submitted to Renfrewshire Council after the date at which the Scheme is revised.
- 5.2 Applications for Community Asset Transfer already under consideration by the Council, as well as any applications where decisions have already been published, would continue to be dealt with under the present process.
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Implications of the Report

1. **Financial** – None. Community Asset Transfer applications will continue to be assessed and dealt with within existing Directorate budgets.

2. **HR & Organisational Development** – None.
3. **Community Planning** – The intention will be that the community bodies will be actively encouraged to consider the CAT process for assets they wish to run on behalf of that community.
4. **Legal** – The Council's Legal Team will be involved in any CAT application recommended for approval and associated leases or sales of assets. Any process adopted by the Council must comply with the terms of the Community Empowerment (Scotland) Act 2015
5. **Property/Assets** – The Council will consider each CAT request / application in line with the relevant legislation and against its own operational requirements and plans
6. **Information Technology** – None.
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. Required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – None.
9. **Procurement** – None.
10. **Risk** – None.
11. **Privacy Impact** – None.
12. **Cosla Policy Position** – Not applicable.
13. **Climate Risk** – All Council property assets have an assigned energy rating which is fully considered and communicated to the relevant bodies in any CAT application process

List of Background Papers

- (a) Community Asset Transfer policy – procedure update; ILE Board report; 31 August 2022;
 - (b) Community Asset Transfer Policy and Procedures; ILE Board report; 15 June 2022
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