

North Lanarkshire Council Report

Environment and Transportation Committee

approval noting

Ref LMcM/LP

Date 10/02/20

Community Asset Transfer Request – Viewpark Gardens

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Executive Summary

The purpose of this report is firstly to provide the Environment and Transportation Committee with the details of a Community Asset Transfer (CAT) request relating to an area of the Viewpark Gardens site (as outlined in Appendix 1 of this report) made by Viewpark Gardens Trust and secondly to provide information on the outcome of the assessment process together with a recommendation on the request.

Recommendations

It is recommended that the Environment and Transportation Committee: -

- (1) note the detailed assessment of the application against approved criteria included as Appendix 2 of this report and the recommendation for rejection of the proposal by the CAT Leadership Group; and
- (2) approve the rejection of the proposal for Community Asset Transfer of the area of the Viewpark Gardens site as outlined in Appendix 1 of this report and reflecting the Council's Community Asset Transfer Policy (Appendix 3). This is based on the assessment findings summarised in paragraphs 2.4 to 2.9 and as set out in full in Appendix 2 of this report.

The Plan for North Lanarkshire

Priority Improve North Lanarkshire's resource base

Ambition statement (22) Facilitate a North Lanarkshire wide approach to asset rationalisation, including with communities and partners

1. Background

- 1.1 The Community Empowerment (Scotland) Act 2015 encourages community-based groups to organise and take control of assets to be utilised for positive outcomes as driven and directed at a local level. Qualifying groups can apply to a relevant authority, which includes local authorities, to lease or purchase an asset.
- 1.2 Upon a formal application being made, the relevant authority is bound to carry out an assessment of the request, establish that the applicant is a qualifying body and assess both the sustainability and likely benefit of the asset transfer. Benefits can include social wellbeing, economic benefit and provision of services and activities that would not otherwise be provided.
- 1.3 In general terms a qualifying group can apply for any asset held by a relevant authority and the asset does not have to be surplus to the council's operational requirements. Where practical with timescales permitting the council will seek to run the adopted surplus process in conjunction with an asset transfer application.
- 1.4 If it is determined that the asset is not surplus it is only when the operational benefit of retaining the asset is greater than the benefits brought by the transfer, that the council can reject the application on such grounds. The application can also be rejected on various other grounds such as the business model is not sustainable; the group cannot evidence community support or community benefit, or the group cannot demonstrate that they have the capacity to manage the asset.
- 1.5 The Council's updated CAT policy (Appendix 3), process and assessment criteria were approved in 2019 by the Community Empowerment Committee.

2. Report

- 2.1 Viewpark Gardens Trust (VGT) submitted a formal CAT request which included all required supporting information for the council's assessment panel to meet and score the application. The group were supported by the Community Ownership Support Service (COSS) which is funded via the Scottish Government to help promote and support community ownership.
- 2.2 In line with the Council's Community Asset Transfer Policy, the findings of the Officer assessment panel were reported to the CAT Leadership Group (comprising; Head of Communities; Head of Asset and Procurement Solutions; and the Executive Director of Enterprise and Communities) for consideration.
- 2.3 VGT are a not for profit voluntary group formed by local people for the benefit of the local community. Underpinning the CAT request is an aim to protect and preserve the Viewpark Gardens by restoring the site for use by individuals and community groups. The proposal could provide scope for a hub to be developed from which a range of leisure opportunities for local people could be provided as well as space for local groups to use.
- 2.4 The assessment process identified and recognised that the group had undertaken significant work to prepare the application and engage with the local community under challenging circumstances. However, several key factors led to the conclusion that the community benefits of transferring this asset on the terms proposed do not outweigh the risks and concerns identified through the assessment process.

- 2.5 The main concern highlighted through the assessment process centred on the financial viability of the project and the limitations of the financial plan and projections in terms of these reflecting the operation of an asset of this scale. The group does not have a proven track record in managing and delivering services and therefore their experience of raising/generating the significant level of funds that would be required to deliver planned services from this site are limited. The financial plans provided did not provide adequate reassurance.
- 2.6 As part of the CAT request the group is required to include a price that they are willing to pay. The council is not bound to accept the offered price but should consider it in the context of both the market value of the asset and the likely community benefit resulting from the proposed asset transfer.
- 2.7 An updated valuation of the area requested by the group has been undertaken to take account of the Grade C Listing within the courtyard area. The revised figure is £1.52m. Whilst the area of Viewpark Gardens requested is not currently leased as an asset, the lease value is estimated at £36,000 per annum.
- 2.8 The terms that the group are proposing are £1 per annum to lease the site. The assessment process concluded that this does not represent a reasonable price in the context of the assessed value of the asset and community benefit that will be achieved as a direct result of the asset transfer. Additionally, the value of the asset to the council is estimated to be £1.52M.
- 2.9 Whilst recognising that asset value is not the main factor in the decision making process and that the group has undertaken some work to identify the community benefit associated with their proposal, consideration does need to be given to the wider socio economic benefit to local communities of alternative use of the site i.e. the generation of income/capital receipt for re-investment in local council services in line with The Plan for North Lanarkshire.

3. Equality and Diversity

3.1 Fairer Scotland Duty

The Community Asset Transfer and Participation process assists the Council to deliver on both the Fairer Scotland and key equality duties. In particular, the policy will further the public sector equality duties to advance equality of opportunity and foster good relations. An integrated Fairer Scotland/Equality Impact Assessment has been undertaken in respect of the CAT policy. No concerns have been highlighted as a result of the assessment.

3.2 Equality Impact Assessment

The Community Asset Transfer and Participation process assists the Council to deliver on both the Fairer Scotland and key equality duties. In particular, the policy will further the public sector equality duties to advance equality of opportunity and foster good relations. An integrated Fairer Scotland/Equality Impact Assessment has been undertaken in respect of this Community Asset Transfer and can be [accessed here](#).

4. Implications

4.1 Financial Impact

4.1.1 As set out in paragraphs 2.7 and 2.8 of this report.

4.2 HR/Policy/Legislative Impact

4.2.1 There are no specific impacts.

4.3 Environmental Impact

4.3.1 There are no specific impacts.

4.4 Risk Impact

4.4.1 Ongoing consideration as part of the corporate risk management approach linked to the implementation of the Community Empowerment (Scotland) Act 2015.

5. Measures of success

5.1 Consideration is given to a Community Asset Transfer request in accordance with the requirements of the Community Empowerment (Scotland) Act 2014, associated Scottish Government Guidance and the Council's Community Asset Transfer Policy.

5.2 Performance measures in respect of Community Asset Transfer and Participation Requests have now been included in the Plan for North Lanarkshire – Strategic Performance Framework. The current performance measures cover the following: -

- numbers of successful Participation and CAT requests;
- number of community groups engaged in Participation and CAT requests;
- support provided to community groups and organisations as a result of initial CAT or PR enquiries; and
- positive outcomes or referrals as a result of initial CAT or PR enquiries

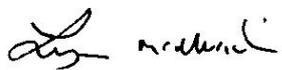
6. Supporting documents

6.1 Appendix 1 – Map of Viewpark Gardens

6.2 Appendix 2 – Viewpark Gardens Trust CAT Transfer Request – Assessment

6.3 Appendix 3 – North Lanarkshire Council Community Asset Transfer Policy and Process

6.4 Equality Impact Assessment - <https://www.northlanarkshire.gov.uk/your-community/equalities/equality-impact-assessments-egias/enterprise-and-communities/community-asset-transfer-viewpark-gardens>



Lizanne McMurrich
Head of Communities

Viewpark Gardens
Baird's Avenue
Viewpark
Uddingston



Community Asset Transfer

Assessment Report

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|--------------------------------|--|
| Name of Organisation/Applicant | Viewpark Gardens Trust |
| Details of the Asset | Viewpark Gardens, Baird Avenue, Viewpark |
| Community Area/Ward | Bellshill area |
| Date submitted | June 2020 |
| Date of Decision | February 2021 |

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| Recommendation | Report on assessment was referred to the CAT Leadership Group for recommendation to Committee. Based on the information presented and the initial assessment process the consensus was that this CAT request should not proceed. |
| Summary comments | <p>The application presents a clear community focused vision for future use of the asset if were to transfer to community ownership and management. As a fairly newly established group the VGT has shown a high level of commitment to developing their business plan and engaging with the wider community at a challenging time. The group can evidence community support for their proposal and where they have identified any local community concern they have been proactive in trying to work through these with local people. However the proposal is in places aspirational and does not provide a robust supporting financial plan which could impact on the viability and sustainability of the application. This is potentially a high value asset and impacting on any decision to transfer to community management would be the consideration of whether the proposal demonstrates community benefit that outweighs the potential wider economic and community benefit of not transferring (ie alternative use of land). Additionally the group does not have a track record of managing an asset (particularly of this size and scale) and although there are aspirations and goals detailed in the application there is less reassurance around capacity and/or a robust financial management model.</p> <p>While the proposals seem ambitious and could prove to be an asset to the community in the widest sense there are questions over the group's ability to finance these proposals.</p> <p>Further information was requested and submitted by the group relating to</p> <ul style="list-style-type: none"> • Detail of proposed terms of the lease • Further breakdown of grant funding being applied for and how this would be used (ie running costs, restoration) • Clarity over what costs are included in initial financial projections and plans for resourcing running costs, restoration and remodelling (Any reassurance about likelihood of securing initial funding) <p>The assessment took into consideration the groups response to these requests and for information as well as the initial Community Asset Transfer request and supplementary information</p> |
| Final Decision | Information from assessment presented to the CAT Leadership Group on 23 rd November 2020 to inform the recommendation report to committee |

| Summary Grading | Very Strong | Strong | Moderate | Weak | Very Weak |
|----------------------------|-------------|--------|----------|------|-----------|
| 1.Details of the asset | | | | x | |
| 2.Organisation information | | | x | | |
| 3.Type of Request | | | x | | |
| 4.Link to the NL Plan | | x | | | |
| 5.Community Proposal | | x | | | |
| 6.Support | | x | | | |
| 7.Financial Information | | | x | | |
| 8.Risk/Social Impact | | | x | | |

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| 1 | Details of the Asset – Includes asset status and proposed use <i>This section asks the council to ensure they are in a position to transfer the asset</i> |
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- Very Strong:** The proposal has a cost saving, does not impact on council direct delivery or service and there are no restrictions on the asset transfer
- Strong:** The proposal is cost neutral to the council, it does not impact on council direct delivery of services and there are no restrictions on the asset transfer.
- Moderate:** the proposals presents difficulties on the council in terms of one or two of the following – direct cost, council direct delivery of services and or restrictions on the assets transfer.
- X **Weak:** the proposals presents difficulties to the council in terms of cost, council direct deliver of services and restrictions on the asset transfer.
- Very Weak:** unlikely to proceed because of ownership restrictions on the asset this would prevent a transfer of responsibility or ownership to another organisation.

Under part 5 of the Community Empowerment Act (Section 79 (2) (b)(i) VGT has requested to lease the area highlighted (See supplementary information) for a period of 5 years at a cost of £1 per annum. The application also includes a request for access to a key for the public toilets out with boundary of lease and for negotiation between other key holders and NLC regarding the maintenance and upkeep of the public toilets. The group are seeking an automatic right to renew the lease at the end of an initial 5 year term “if ownership has not been activated” and the property can only be offered to another party if VGT confirm in writing they do not wish to continue. It is not clear what is meant by the term “if ownership has not been activated” however it would not be considered good estate management practice to offer automatic renewals as in effect the council would not be able to make any decision over the future of the site without VGT’s approval.

VGT wish a schedule of condition at entry to confirm the standard for re-instatement however go on to state that there would be no re-instatement clause. This is contradictory and again would not be acceptable from an estate management perspective.

VGT have requested that any monies spent on the site whilst they are tenants are to be deducted from any future discussions over the land sale figure. Again this would not be normal market practice and the reality is that the site would be more attractive to the market cleared of all structures. The council could therefore not commit to do this as the money spent on improving the buildings is unlikely to add significant value to the land price.

The group have agreed to safeguard any preservation orders or requirements around protected tree species and there is a live application to NLC from Historic Scotland to list the Gatehouse as a Category C listed building. VGT

initiated this application and would therefore uphold any regulation relating to this. The group, at present have access to the Gardens for some basic maintenance and protection of existing plant life. It is evident that the group has invested in the maintenance and protection of the site to an extent and that they are passionate about the Viewpark Gardens remaining as a community asset.

The land requested for the CAT is estimated to be worth £1.52 million to the Council and would represent a loss to the organisation in terms of marketable land for development. This asset was being prepared for the market prior to receipt of the current CAT request. The Council must to consider if the CAT proposal and the intended community benefit outweighs the potential benefit to the wider and local economy as a result of alternative use of the land and resulting investment if the asset was sold as originally intended. Additionally the rental value is estimated to be £36k P/A therefore the lease agreement requested removes the option for the Council to generate income from site in the shorter term although the site is not currently leased and there are no plans to market the site for commercial lease. Through disposal of the cleared site and additional adjacent land the Council could generate a significant capital receipt potentially in region £2.5 million.

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| 2 | Organisational Information – Includes governance and capacity to deliver |
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- Very Strong:** Applicant has clearly evidenced that they are a robust and viable organisation with effective governance arrangements in place.
- Strong:** Applicant has provided adequate evidence that they are a robust and viable organisation with satisfactory governance arrangements.
- Moderate:** Applicant has evidenced some signs of being robust and viable and partial information provided on governance arrangements.
- Weak:** Applicant has shown no evidence of being robust and viable and no/little information being provided on governance arrangements.
- Very Weak:** Applicant has provided no evidence of being robust or viable. Governance arrangement does not meet the criteria for asset transfer.

The governance arrangements for the group are acceptable and deem them eligible to apply for CAT under the Community Empowerment (Scotland) Act 2015. The group is fairly newly established initially to work locally to reflect local support for saving the gardens. The group has worked hard and under exceptional circumstances managed to progress with the development of an ambitious proposal. The group does not have a proven track record to evidence their capacity to manage and run a facility or asset however they are looking to lease before moving to progress with full ownership to build their experience and plans. While there appears to be some division amongst local community groups there is also clear evidence of wider community support for the proposal for this asset and the group has proactively engaged with other groups or individuals to reach resolution where any concern has been raised. As mentioned earlier the financial projections and plans do not appear to be robust in supporting such an ambitious proposal

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| 3 | Type of request, payment and conditions <i>This section confirms the type of request and seeks and whether or not the price reflects a fair price for the asset taking into consideration community benefit</i> |
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- Very Strong:** Applicant has proposed acceptable terms, with prices reflecting Market/Fair Value. (score would reflect acceptable terms; for example – the right timescale for being able to complete the sale or lease and funds are already in place)
- Strong:** Applicant has proposed terms, with prices reflecting Market/Fair Value.

Moderate: Applicant has proposed terms, with prices well below Market/Fair Value.

Weak: Applicant has failed to propose terms or prices.

Very Weak: Applicant unsure of securing funding to afford costs.

The group is requesting to lease an area of Viewpark Gardens as outlined in the supplementary information at a cost of £1 P/A and have clearly outlined the suggested terms of the lease. The group has requested a full insuring and repairing lease and an agreed Schedule of Condition signed by both parties confirming existing condition and current repairing standard. The group would undertake to maintain the asset at the same standard or better. The Schedule of Condition would confirm standard for reinstatement and there would be no reinstatement clause given the poor conditions the gardens are currently in. They have also requested in their additional rights an annual break clause in favour of ownership. If the transfer was approved the details of the lease would require property/legal consideration prior to agreement. The group has considered funding in terms of initial affordability but as previously outlined, the financial plans and strategy are not robust at this time with limited reassurance around the likely financial streams. Additionally the consideration of running costs is based on the rates and discounts that the Council receives and consideration would be required to assess affordability of costs should these rates not be applicable. The group are looking to lease the site initially and work towards full transfer at a later date. They have requested that investment they make is deducted from cost for full transfer however the group would need to plan for investment as an organisational risk as valuation would not normally be calculated on the basis of investment but on market value and negotiation with the buyer as appropriate.

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| 4 | Link to Strategy– How the project links into the vision and ambitions set out in the Plan for North Lanarkshire (TPFNL) |
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Very Strong: Applicant has clearly evidenced that their project links in to the key themes of TPFNL

Strong: Satisfactory evidence that the applicant understands the importance of linking to the outcomes of the TPFNL

Moderate: Limited evidence that the applicant understands the need to ensure the projects reflect one of more of the strands of the TPFNL.

Weak: Little or no evidence that the applicant has made a clear connection to the TPFNL

Very Weak: Applicant has no understanding of the TPFNL

Based on the details provided in the application this group have clearly considered how they comply with, support and reflect the ambitions within TPFNL however as previously outlined there is less detail on how they would resource action and evidence impact on the community

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| 5 | Community Proposal – Includes project aims, community engagement and community benefit/need |
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Very Strong: Full consideration has been given to the aims, objectives and vision with clear thought to the future direction of the proposal. The proposal provides, for example, a social/economic/environmental impact. Comprehensive evidence of need/demand provided including consultations, research and surveys.

- Strong:** Adequate description of aims, objectives and vision for the proposal. A good understanding of the community benefits including adequate evidence. Need/demand evidence include some consultation and research.
- Moderate:** Limited description of the aims, objectives and vision for the proposal. Some understanding of the community benefit but not underpinned by substantive evidence. Some evidence of need/demand provided including limited consultations, research and surveys.
- Weak:** Inadequate or no description of aims, objectives and vision for the proposal. Limited reference to community benefit and associated opportunities. No evidence of need/demand provided.
- Very Weak:** No description of aims, objectives and vision for the proposal. No reference to community benefit. No evidence of need or demand provided.

The proposal and its aims are strong and there is clear local community support for the proposal. The proposal is clearly grounded in a community focussed approach and presents evidence of need and demand in the context of community support for retaining the gardens as a space for community recreation as was previously the case. Evidence includes research, engagement and surveys. What is unclear is the wider understanding of alternative investment potential in the area. The local community has been engaged in a number of ways detailed in the supplementary information including organised consultation events and surveys and direct discussion with individual stakeholders. This is outlined in more detail in the application. There has been strong support for the application from the wider community through the CAT feedback process

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| 6 | Support – Includes stakeholder engagement and partnership working <i>This section looks Including evidence community and stakeholders have been engaged</i> |
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- Very Strong:** Applicant has clearly demonstrated links with relevant stakeholders and groups as well as strong local partnership and community engagement. Evidence of joint responsibility for delivery of other projects/service.
- Strong:** applicant has evidenced some partnership working arrangements. Relevant links with groups also evidenced along with strong community engagement activity.
- Moderate:** Applicant has demonstrated limited links with groups and community engagement activity. Some evidence of partnership working provided.
- Weak:** No/poor evidence of community involvement. No/poor evidence of partnership Working.
- Very Weak:** No evidence of community involvement. No evidence of partnership working.

VGT has shown commitment to engaging with the wider community at a challenging time to develop a proposal that reflects community views. The group can evidence community support for their proposal and where they have identified any local community concern they have been proactive in trying to work through these with local people. While there appears to be some division amongst local community groups there is also clear evidence of wider community support for the proposal for this asset and the group has proactively engaged with other groups or individuals to reach resolution where any concern has been raised. In a short period of time and in challenging circumstance (throughout Covid 19) the group has attempted to build local relationships and work in partnership including with local groups and Council services. They have been in ongoing discussion with a number of council services around a range of challenges they have faced locally linked to service provision and other local groups

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| 7 | <p>Financial Information – Includes fundraising, financial planning and management <i>We will seek clarification of funding being in place or any potential delay in funding being in place in time for the final transfer deadline.</i></p> |
| <ul style="list-style-type: none"> <input type="checkbox"/> Very Strong: Clear Evidence that sufficient financial resources are/will be in place by the time of transfer and good resource planning for short/ medium/long term sustainability demonstrated. Detailed, realistic and achievable income and expenditure, cash flow forecast provided along with a comprehensive contingency plan. <input type="checkbox"/> Strong: Evidence indicates that sufficient financial resources are/will be in place by the time of transfer and some resource planning has been demonstrated. Satisfactory income and expenditure and cash flow forecast. Some consideration has been given to contingency planning. <input checked="" type="checkbox"/> Moderate: Applicant has demonstrated there are some financial resources in place but all finances may not be available within the timeframe. There is limited evidence of resource planning. Basic income and expenditure and cash flow forecast induced with limited consideration given to contingency planning. <input type="checkbox"/> Weak: Insufficient financial resources currently in place and unlikely to be ready within the Time frame. No evidence to demonstrate resource planning. No income and expenditure and cash flow forecast provided and no contingency plan outlined. <input type="checkbox"/> Very Weak: No evidence of financial resources in place. No evidence of resources or financial forecast to predict cash flow. <p>Some of the financial plans reflect private Income generating opportunities such as photography lets and food festivals which may be optimistic and could be impacted upon by the current climate and restrictions. It is also not clear if these projections have been assessed based on the location and other similar business models (ie in established areas)</p> <p>The financial plans are optimistic and reflect possible funding sources rather than any clear indication of advanced discussion with or commitment from potential ‘high value’ funders to evidence a robust financial strategy. The financial strategy for a fairly new organisation may be considered a risk to some funders without significant match funding in place. There are some gaps in the financial projections regarding maintenance costs which do clearly show for example full employee costs. The plans and supplementary information indicate that the group plan to apply for funding from a range of sources including a number of Lottery funded programmes</p> <p>The supplementary information highlights estimated restoration costs of £300,000 and the group has confirmed that this is fully additional to the running costs relating mainly to original wall structures surrounding the gardens/ pear wall restoration/ tower and bell restoration/ stables buildings. It has also been confirmed that these works would not be completed throughout the duration of the lease but if the group meet their aspiration around full ownership and therefore does not need to be considered to enable the gardens to be open and operational.</p> <p>The application states that the group is in a position to be able to take out business loans. However while on paper the group may be eligible for certain loans as a new group the proposal may be considered a risk to potential lenders particularly in the current climate calling into question the reliability of this as part of the financial strategy</p> | |
| 8 | <p>Risk/Social Impact – Includes potential impact and barriers/challenges and understanding of managing the asset.</p> |

- Very Strong:** Full evidence that applicant has in place the necessary capabilities to manage the asset. Considerable awareness of the potential impact of the transfer on others, and barriers/challenges clearly identified. Comprehensive information provided on the anticipated social benefit/impact of the transfer and how this will be measured.
- Strong:** Satisfactory evidence that applicant has the necessary capabilities to manage the asset. Sufficient awareness of the potential impact of the transfer on others with consideration given to potential barriers/challenges. Adequate information provided on the anticipated social benefit/transfer.
- Moderate:** Limited evidence to demonstrate capabilities to manage the asset. Some awareness of the potential impact of transfer on others and consideration given to potential barriers/challenges. Minimal information provided on the anticipated social benefit/impact of the transfer.
- Weak:** Inadequate or no evidence of capabilities in place to manage the asset. Little or no awareness of the potential impact of the transfer on others or possible barriers/challenges identified. No social benefit/impact monitoring outlined.
- Very Weak:** applicant has provided no evidence of capabilities to manage the asset. No awareness of the potential impact of the transfer on others. No social benefit or impact monitoring in place.

While the proposal is aspirational and community focussed the main areas of identified risk is around the robustness of the supporting financial plan which may impact on the viability and sustainability of the project and the groups limited track record of capacity to manage an asset (particularly of this size and scale)

There is no clear risk management plan to demonstrate that the group has considered potential barriers and risk mitigating action. This may have strengthened and provided reassurance around the financial sustainability of application. While financial projections have taken into consideration the affordability of obtaining and upgrading the site, they do not necessarily demonstrate affordability of plans for running facilities on an ongoing basis. A lease initially would allow the group to test viability of their proposal before considering a longer term and more permanent transfer of the asset into full community ownership

There may also be some reputational and financial risk to the council relating to the value of the property and therefore the potential financial loss to the organisation as well as the potential wider value the sale of gardens could contribute to local economy. If the proposal was to fail following transfer there is a risk of additional financial and reputational risk to the council.

A further identified risk may be the impact of access required for proposed use on use of remaining site. It is not clear how this would be managed and responsibility for any further maintenance required as a result. The running and maintenance of the site is initially based on volunteers and a clearer management plan may have provided reassurance regarding how this would be achieved

NORTH LANARKSHIRE COUNCIL

**COMMUNITY ASSET TRANSFER POLICY
(Under Part 5 of the Community Empowerment Act)**

1. Vision

North Lanarkshire Council (NLC) has a long history of supporting and working with local communities and recognises the important contribution that this makes to improving outcomes for local residents particularly those experiencing the highest levels of inequality.

NLC welcomes the focus placed on empowering and supporting local people to play a more active role in improving their communities as outlined in the Community Empowerment (Scotland) Act 2015. Community Asset Transfer (CAT) can have a significant impact on realising opportunities for community empowerment, enterprise and community led regeneration in North Lanarkshire. NLC is committed to working with communities to support CAT requests as a potential mechanism for encouraging community ownership and involvement in local service delivery.

NLC is fully committed to maximising its assets, building on existing partnership working with communities against an agreed set of criteria in order to support and deliver the ambitious vision set out in The Plan for North Lanarkshire (TPFNL). The Council will work with community planning partners where appropriate to implement joint approaches to support communities to actively participate in the development and delivery of shared priorities. This policy will support CAT as a mechanism by which NLC will demonstrate its continued commitment to engagement and partnership working with the community and voluntary sector to deliver effective local services.

NLC fully supports the underpinning principles of CAT and endeavours to positively support communities throughout the CAT process. However, there may be times that in order to protect the interests of the wider community, assets may need to remain in Council ownership to support the delivery of essential services or support economic activity in the area. Each case will be fully considered on its merits in line with the CAT guidance associated with part 5 of the Community Empowerment (Scotland) Act 2015 and the Councils CAT policy and process.

2. Community Empowerment (Scotland) Act 2015

This policy responds to the framework for CAT requests set out in the Community Empowerment (Scotland) Act 2015 and provides the basis upon which the Council will manage requests for the transfer of assets (buildings or land owned by the Council) made under the Part 5 of the Act. The aim of the policy is to set out a consistent approach and clear guidance for consideration of transfer of assets (including land and buildings) by the

Council to relevant community groups and organisations (herein referred to as the Community Controlled Body or CCB) in the spirit of community empowerment and ownership

CAT involves the right for a CCB to request to manage, lease or own an asset that is currently owned (or in some circumstances leased) by North Lanarkshire Council. The Council has developed a transparent process for CAT that takes into consideration community benefit, potential impact on council services and long term sustainability at all stages from pre request discussion to decision and where relevant, appeal.

The policy will be implemented in-line with the Council's statutory obligations for CAT outlined in part 5 of the Community Empowerment (Scotland) Act 2015

3. Scope of North Lanarkshire Council Community Asset Transfer Policy

This policy applies to all Council staff receiving CAT requests and/or managing an opportunity for CAT. The policy also provides guidance to communities wishing to submit an Asset Transfer Request (ATR).

Community Asset Transfer refers to the policies and associated procedures that relevant authorities (including local authorities) may use to transfer the ownership, lease or management of an asset to a community controlled body under part 5 of the Community Empowerment (Scotland) Act 2015. Community Asset Transfer can occur in a range of ways including:-

- new management agreements for an existing facility or land;
- leases (including maintenance of the property/land in accordance with lease terms and conditions); and □ transfer of ownership.

4. Community Benefit and Eligibility

The Council has identified a 'First Point of Contact' officer for CAT enquiries in order to provide guidance to community group's to assess their eligibility to become a Community Controlled Body, to signpost for additional support as required and to ensure that the agreed process is understood and adhered to. This will involve checking with the organisation that they meet the criteria to become a Community Controlled Body (CCB) and are able to enter into a lease or contract with the Council under the terms of the Act. For example in order to be considered as a CCB the operation, governance and practice of the group must reflect:-

- That the group is controlled and managed by community members and ensure that membership is open to any adult who wishes to join;
- An asset clause stating that any profits can only be used to benefit that community and in accordance with the aims and objectives of the organisation (as set out in their constitution or incorporation documents);
- If the request is for transfer of title (ie ownership) the CCB needs to be a not for profit organisations; and
- a clear Dissolution clause that states that the assets of the company can only go to another CTB or charity.

Certain bodies are not automatically eligible for CAT unless designated by Scottish Ministers for example Community Interest Companies (CICS), Community Trusts, Foundations or enterprising Voluntary and Community organisations. Where relevant the rules of these types of organisations would need to be examined to make sure they were eligible.

Companies or other organisations established for profit, for the benefit of private shareholders or to generate equity through 'for profit' objectives, are not eligible to apply for asset transfer under Part 5 of the Community Empowerment Act whether in part or as a whole but may engage with the Council as part of a wider asset management process to negotiate a mutually agreeable outcome.

Additionally, any potential CCB will be encouraged prior to submitting an official request to consider how they will evidence that the purposes for which they intend to use the asset they are requesting is for community benefit through:-

- contribution to a developing a sustainable community;
- empowering local communities;
- ensuring equality of access and benefit;
- improved quality and efficiency of service;
- demonstrating and enhancing social value;
- partnership working with other community and voluntary sector organisations; and
- assisting local communities to achieve their aspirations.

5. Underpinning Principles of Community Asset Transfer

The following principles govern the Council's approach to Community Asset Transfer:-

- the Council welcomes community interest and requests to improve use and potential for building and land assets;
- applications to transfer assets for community benefit/interest will be considered by the Council in line with the CAT process
- Requests relating to a Council asset will be considered on an individual basis and may therefore result in terms of agreement reflecting the circumstances of the individual case and asset;
- the consideration of expressions of interest and fully developed requests for transfer of an asset should be managed in a manner that promotes positive partnership working throughout the CAT process and beyond any potential handover;
- CAT requests should demonstrate that they meet the eligibility and criteria and provide all information outlined in section 6 of this document.

6. Implementation of CAT process

Any Community CCB considering CAT as an option should, in the first instance, speak to the Council's First Point of Contact who will provide

information regarding the process and basic requirements and direct the group to self-assess their eligibility and readiness through the Councils online CAT portal. At this point, where it is evident that the group does not meet basic eligibility criteria, and as appropriate the group may be signposted for additional support or information to assist them to meet their aspirations in the future. The Council will accept a CAT request which can demonstrate clear benefits to communities and the capacity of the group to deliver/manage services/assets should the application be successful. The application will be considered where eligibility seems apparent and the group will be advised of the CAT process including timescales.

CAT Process

The community transfer body will be supported to submit their formal request in writing stating that the application is being made under Part 5 of the Community Empowerment (Scotland) Act 2015. The request must detail:-

- the land or building being requested;
- if purchase or rental is being requested and the cost that the community transfer body is prepared to pay along with any other relevant terms and conditions;
- the intended use of the land or building;
- how the CCB will fund and manage its plan for the CAT;
- how the CAT will help the community and that there is support for the proposal from the wider community;
- the community transfer body's rules, or a note that the group has been designated by the Scottish Ministers; and
- details of project beneficiaries and how the proposed activity will address current gaps or complement / add value to existing service provision.

On receipt of the completed request the validation date is set and the Council must acknowledge the request and communicate a decision within 6 months of this date unless an alternative timescale has been formally agreed between the two parties. The Council will inform those who may own, rent or use the land or building about the request, as well as publicising the request online for a 4 week consultation period. The Council will publish online information relating to live CAT requests ensuring that GDPR guidance is adhered to.

The Council will not dispose of, or sell land, to anyone except for the CCB submitting the request until the request has been concluded. Where the asset has already been advertised for sale or lease before the request was made the Council is unable to accept or progress with the CAT. Acknowledgement of the request will clearly state the Council's position in relation to whether a ban on sale or lease to other people applies or if any other asset transfer requests had been received for this asset.

The CCB will be advised in writing of the outcome of the application and where the application is refused provided with information and signposting to assist them to develop or if appropriate to meet their aspirations in relation to CAT. Depending upon the reasons for refusal the group may be referred for direct support or assistance. The group has a right to an internal review (setting out their reasons why) and if they so wish, a further appeal to Scottish Ministers. A

CCB cannot make another CAT request for the same asset within 12 months with the same terms.

7. Decision Making

7.1 Assessment Decision

A CAT Steering Group made up of key officers from across Council services including the holding service for the relevant asset and representatives of key areas of business such as property, legal, finance and communities will assess the CAT request and present evidence based on the assessment criteria (appendix 1) to the CAT Leadership Group. The CAT Leadership Group is made up of:-

- Executive Director of Enterprise and Communities;
- Head of Communities; and
- Head of Asset and Procurement Solutions

The CAT Leadership Group will make recommendations regarding the request to the committee relating to the holding service for the asset for endorsement. The CCB is then informed of the decision within timescales agreed earlier in the process. An annual report relating to all CAT requests and their outcome will be reported to Policy and Strategy Committee annually.

The Council may call upon specialist advisors to provide advice and inform the decision making process. Once the validation notice is issued a decision will be taken and communicated within 6 months. Should an extension be required this can be proposed in writing to the CCB and mutually agreed.

7.2 Successful Outcome

In line with statutory guidance, the outcome of any CAT request will be communicated to the CCB within 6 months of the validation notice date. Where a decision is in favour of the community group, discussion will take place as to the terms of the CAT and the relationship between the Council and CCB in meeting these terms including financial agreements for sale or rental of the property or land. The CCB must then make the Council an offer and the expectation outlined in the statutory guidance is that a contract would be agreed within 6 months of the offer being received. It is acknowledged that this timescale may not always be achievable due to matters outwith the control of both parties and therefore agreement may be reached with the Council or imposed by Scottish ministers to allow for more time to conclude the process

7.3 Unsuccessful Outcome – Review and Appeal Process

Where a CAT request is unsuccessful the CCB may request that the Council review their decision and this review must be undertaken by Elected Members. The Community Empowerment Review Sub Committee comprises eight elected members. It should be noted that members from the local area where the appeal has been received from will not be part of this appeal committee. If

the CCB is not satisfied after the review, they can appeal to the Scottish Ministers. A CCB can ask for a review or appeal if the Council:-

- does not agree to their asset transfer request;
- does not make a decision by the time it should have; and
- the CCB does not agree with the terms and conditions in the decision notice.

Following review or appeal the Council will send a new decision notice to the CCB stating the new decision and reasons for this. The following points apply to CAT reviews and appeals:

- a community transfer body has 20 working days after the decision notice to ask for a review or appeal;
- other people who commented on the asset transfer request must be asked what they think about the review or appeal;
- all the papers about the review or appeal must be publically available online; and
- the Council or the Scottish Ministers can ask anyone for more information to help them make a decision. They can ask for the information in writing or hold a meeting so people can tell them their views. They can also do other things, such as visiting the land or building the request is about.

8. The Asset

The guidance on CAT within the Community Empowerment (Scotland) Act 2015 will ensure that where CAT is being considered, the Council will always take into consideration community benefit. The CCB can indicate the price that they are willing to pay for the asset and the council must consider the feasibility of agreeing a cost that reflects community benefit and also Council operational requirements. Market value will be taken into consideration alongside community benefit. This will inform the assessment and decision making process, including securing the best price as can reasonably be obtained to support Council operations and priorities.

The Council's assessment of a CAT request and any subsequent decision to proceed will take into account the condition, usage, value of the asset, the availability of other suitable premises from which the proposed activity could take place and value for money offered by the proposal. The price agreed will be informed by the social, economic and environmental benefits generated by the CAT including for example

- Economic development or regeneration
- Health
- Social Wellbeing

North Lanarkshire Council will provide information which it holds on the asset to the applicant CCB. The Council will consider requests for information on the asset submitted in writing, where this information is readily available and deemed to be useful to the progression of the CAT process. CCB's should seek (and fund) any required independent legal and technical advice relating to property condition and value

9. Reporting

The council is required to report annually on:-

- the number of requests received;
- the outcome of requests; and
- any support put in place to support requests.

The CAT steering group, on behalf of the Corporate Community Empowerment working group, will provide reports to the Corporate Management Team and relevant committees regarding any requests received and produce and make available annual reports to Scottish Government, committee and the public

10. Approaches to Managing Risk

North Lanarkshire Council recognises that there are inherent risks in Community Asset Transfer both for the CCB and for the Council, and has in place mechanisms to ensure a consistent approach to managing these. Each request will be considered on a case by case basis against robust criteria. The assessment and decision making criteria will help to manage and minimise risk and support the CAT process.

The Council will as appropriate sign-post the CCB to the relevant local and national agencies for advice/ resources in managing the risks involved and to support and facilitate successful asset transfer.

11. Remit of CAT Panel and Community Empowerment Review and Appeal Sub Committee

CAT Panel

The CAT Panel is responsible for overseeing the development and strategic direction of the CAT policy and implementing the operational process for CAT requests. This group will be made up of officers from across the Council with practical experience and understanding of working with communities, management and transfer of community assets. There is the option to co-opt partners who have particular knowledge and expertise and include representation from the voluntary sector.

The CAT Panel will assess applications against the criteria set out in the community asset transfer process. The Panel will consider policy, legal and financial risk to the Council and provide information to The CAT Leadership Group to inform recommendations to the relevant service committee for decision.

11.2 Community Empowerment Review and Appeal Sub Committee

The Community Empowerment Review and Appeal Sub Committee will be made up of 8 Elected Members. Post review, decisions will be the responsibility of the Elected Members who make up the Community Empowerment Review and Appeal Sub

Committee. Council officers can act in an advisory capacity to the review panel. Where a CCB disagrees with a proposed decision they can appeal to Scottish Ministers for final determination.

12. Policy Review

NLC will continue to review the North Lanarkshire Council Community Asset Transfer Policy following an initial twelve month period and in line with any amended guidance from the Scottish Government on Community Asset Transfer.

13. Scottish Government – Asset Transfer Under the Community Empowerment (Scotland) Act 2015 – Guidance for Relevant Authorities

NLC will implement this Policy in accordance with the above guidance. All CAT requests will be considered in line with this.