

# North Lanarkshire Council

## Report

### Policy and Strategy Committee

approval  noting

Ref LMcM/LP

Date

03/12/20

### Developing the Capacity of Communities - Sustainable Options for Community Asset Transfer

**From** Lizanne McMurrich, Head of Communities

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#### Executive Summary

Community ownership or control of land and buildings can make a major contribution to empowering communities. It helps to provide stability through a sustainable base from which a community organisation can develop its activities thereby creating a stronger sense of community identity, cohesion and involvement.

Driven by the Plan for North Lanarkshire, consolidating investment and directing development towards town centres and communities aims to reverse the decline of the high street, create vibrant mixed-use centres, offer choices in housing and employment, make attractive well-connected neighbourhoods, and foster distinctive communities with a strong sense of place in order to revitalise struggling areas and further grow the local economy for all

Under the terms of Part 5 of the Community Empowerment (Scotland) Act 2015, community bodies have the right request the transfer to them of land and buildings belonging to public authorities.

This report explores the approach firstly that would be required to position a significant number of Council owned assets as sustainable opportunities to communities to operate services within communities in line with the Ambition articulated within the Plan for North Lanarkshire to *develop the capacity of communities to help themselves*. In addition, the resource implications of supporting voluntary and community sector organisation to realise their potential to develop their service/resource base.

Through the town and community hubs programme, the council is actively rationalising its asset base. Communities play a corresponding key role in working with the council in determining the development and delivery of services that reflect local need. Dialogue with communities around local priorities and how communities can take advantage of tools and opportunities for empowerment such as Community Asset Transfer is actively planned and promoted.

There now requires to be a clear, resourced and time lined project plan established to focus the Council's work with communities towards developing their capacity where the Council's broader asset management processes for the delivery of the One Plan offer opportunities, reflecting (but not limited to) the following strands of work: -

- asset management and rationalisation policy and practice;
- integrated Town and Community Hubs;
- Town Visions;
- Framework for Working with Communities – community capacity building;
- Country Parks for the Future; and
- The insourcing of cultural and leisure services and the future model for service delivery.

## Recommendations

The Policy and Strategy Committee is recommended to:-

- (1) note the key aspects of the Council's CAT process; and
- (2) approve the preparation of an appropriately resources and time lined project plan to focus the Council's work with communities towards developing their capacity where and when the broader assert management process linked to the delivery of the One Plan offer opportunities

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### The Plan for North Lanarkshire

Priority All priorities

Ambition statement (19) Improve engagement with communities and develop their capacity to help themselves

#### 1. Background

##### 1.1 Meeting the Requirements of the Community Empowerment (Scotland) Act 2015

1.1.1 Part 5 of the Community Empowerment (Scotland) Act 2015 places a statutory duty on local authorities and certain other public sector agencies to develop a clear process for supporting community participation and ownership of assets. The introduction of the requirements of the Act was supported through Scottish Government guidance for the delivery of Community Asset Transfer (CAT). The guidance articulates that the Council's responsibilities are to: -

- establish, maintain and make available register of land owned or leased by the Council "to the best of its knowledge and belief";
  - develop clear decision-making criteria, review and appeals procedure for Community Asset Transfer;
  - actively provide information and promote the process for Community Asset Transfer and Participation Requests aligned to other participation opportunities;
  - assess the capacity of the organisation making a CAT request and provide support to assist them to fulfil their aspirations around community empowerment and participation outcomes;
  - publish information relating to requests; and
  - produce and publish annual reports.
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## **2. Report**

### **2.1 Implementation Progress**

2.1.1 To underpin the Council's statutory requirements, and in line with associated guidance for CAT, the Council now has the following processes in place, which have been utilised in the case of several successful community asset transfers: -

- an approved Community Asset Transfer Policy;
- decision making criteria and process for Community Asset Transfer assessment process and governance to facilitate recommendations on CAT requests being made to the relevant service committee;
- appeals process for Community Asset Transfer;
- published Register of Land owned or leased by the Council; and
- published Common Good Register.

2.1.2 As members will be aware, through the recent statutory annual report on CAT and Participation Requests presented to the Community Empowerment Committee. support is being provided to several community organisations following expressions of interest in Community Asset Transfer.

2.1.3 The development of community capacity to deliver sustainable services within communities has the potential to be significantly enhanced through surplus properties suitable for Community Asset Transfer.

### **2.2 Overview of North Lanarkshire of Current Community Asset Transfer Process**

#### **2.2.1 Pre-Formal Request**

2.2.1.1 Interested local community and voluntary sector organisations are encouraged to consider criteria and complete the CAT prequalifying questionnaire through the North Lanarkshire Council (NLC) CAT portal. This approach is designed to encourage self-assessment regarding eligibility and capacity to take on an asset. Discussion can also take place at this point with the Council's allocated First Point of Contact Officer to provide information and guidance.

#### **2.2.2 Submission of Formal Request**

2.2.2.1 Following completion of an online questionnaire and a check by the Council to ensure that the group/organisation meets the eligibility criteria, a community group (known throughout the CAT process as a Community Controlled Body or CCB) can submit a CAT request outlining;

- the reason for making the request;
- the benefits of the proposal; and
- the price they are prepared to pay for the asset.

2.2.2.2 Crucially, the group must evidence that they meet eligibility criteria in terms of not only the type of organisation that they identify as, but also the level of community support for the transfer and the community benefit associated with their proposal. Their capacity as an organisation to manage the asset and any associated intended service to be delivered is also key within the decision-making process.

2.2.2.3 The Council must acknowledge the request and provide information regarding timescales. The timescale for a decision relating to a CAT request is normally 6 months from validation date (date set by the Council on receipt of a complete CAT request with all associated information and documentation) as outlined in the statutory guidance. However, should there are circumstances which would mitigate against meeting the standard timescale, the Council can agree a different timescale with the group.

### 2.2.3 **Decision Making Governance**

2.2.3.1 A CAT Assessment 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, assess the CAT request and present evidence based on the assessment criteria (see Appendix 1) to the CAT Leadership Group to enable consideration and determination of the recommendation to Committee. The CAT Leadership Group comprises: -

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

2.2.3.2 The CAT Leadership Group review the application data and make recommendations regarding the request to the committee. The Head of Asset and Procurement Solutions is then responsible for implementing the transfer (or lease as might be the case) and determining any further property related decisions required to progress.

2.2.3.3 The CCB is then informed of the decision within timescales set earlier in the process.

### 2.2.4 **Appeals**

2.2.4.1 Where the decision is not in favour of the CAT request, the CCB can request a review. In the first instance, the Council's Policy and Strategy Committee would consider the assessment data against the criteria data, with input from relevant officers as required. If the internal appeal is unsuccessful the group has the right to further appeal the decision with Scottish Ministers. A group cannot resubmit a CAT request for the same asset on the same terms within 12 months of the original request.

### 2.2.5 **NL Properties**

2.2.5.1 The Council may be subject to CAT Requests for any properties within its ownership and has a statutory obligation to respond to such requests regardless of the Council's intentions for use of the property, unless evidence can be provided that; plans are underway to sell or dispose of a property and that this was the case prior to receiving the CAT request. This applies in most circumstances. However, the legal status and governance of NL Properties requires to be duly considered and reflected in any decision relating to properties within the NL Properties portfolio.

### 2.2.6 **Price Offered by Community Controlled Body (Purchase or Lease) and Assessment**

2.2.6.1 The CCB should, as part of their official request, indicate the value that they are willing to pay for purchase or lease of the property. This should be the starting position for negotiating terms. Should the community-controlled body decide to offer a price that is less than market value, the Council requires to assess whether the non- financial benefits offered by the proposal justifies the price offered by the CCB.

2.2.6.2 The Council cannot refuse to consider a request based on the suggested price alone. However, this may be a material consideration in the decision-making process or in negotiations with the group.

## **2.2.7 Consideration of Requests**

2.2.7.1 The Council will consider, during its decision-making process, how the business case of the CCB delivers on the furtherance of the strategic ambitions of the One Plan for North Lanarkshire. However, if the group meets the eligibility criteria and can provide necessary information and documentation, they are entitled to make a request and the Council has an obligation to respond by considering the request. The CCB has a right under Part 5 of the Act for their request to be considered relating to ownership, management or lease of an asset.

## **2.3 Asset Management and Community Asset Transfer**

2.3.1 In line with the Programme of Work, there now requires to be a clear and appropriately resourced, time lined project plan established to focus the Council's work with communities towards developing their capacity to optimise opportunities where the broader asset management processes for the delivery of the One Plan offer scope to do so, for example : -

- development of the Integrated Town and Community Hub Model;
- Town Visions;
- Framework for Working with Communities – Community Capacity building;
- Asset Management and Rationalisation;
- Country Parks for the Future ; and
- The Insourcing of Culture and Leisure Services and the new model for service delivery.

## **2.4 Assessment and Timescale**

2.4.1 One of the key responsibilities of relevant authorities is in assessing the capacity of organisations and providing support to them to work towards achieving their aspirations. Before submission of a request, a group is encouraged to self-assess to ensure that they meet and can evidence basic eligibility criteria and meet all requirements

2.4.2 When a full and complete CAT request is received the council must acknowledge and provide information regarding timescale for consideration. The validation date is set as the date on which the application is received. The timescale for a decision is a maximum of 6 months from the validation date (but this can be negotiated with the group if required).

2.4.3 All who currently rent or use the asset must be notified of the application. The Council must publish the request for a 4-week consultation period following receipt of the request and forward any feedback to the applicant group. Following which the Council's assessment process would begin.

2.4.4 If the Council is satisfied that the application meets the eligibility criteria it can determine the timescales for this - unless the group has requested specific timescales to be considered. Therefore, in theory, the Council could move the process at a relatively self determined pace.

2.4.5 Following decision, the group have 20 days to submit a request for a review or appeal. If the outcome of the review/appeal is refusal, the group cannot submit a CAT for the same asset within a 12-month period.

2.4.6 From the point of receiving a Community Asset Transfer request (whilst recognising that committee timescales will impact) the Council could potentially decide very quickly (i.e. from receipt, 4-week consultation period, and enough time to go through internal decision-making process). Pace would be determined by the following factors, which require to be taken account of:-

- community support, e.g. high levels of objection though the consultation period could hinder in terms of timescales, as the process requires community support to be demonstrated;
- the group would need to have their business plan prepared in advance, Officers require to be talking to groups as early as possible as proposals need to evidence consultation, have community support and that the proposal would bring community benefit;
- ensuring that the messaging and approach transparently demonstrates that the process is designed to support communities and is not driven primarily by service reduction substitution;
- expectation around cost/sale price which could also impact on timescale, as most groups even with capacity, would not necessarily have resources to take on an asset immediately, and in addition to purchase costs, there are considerations around running costs, service delivery costs, and legal costs; and
- if the group need to apply for external grants, this could also add time.

## **2.5 Resourcing Considerations**

### **2.5.1 Supporting the Process**

2.5.1.1 A significant number of simultaneous CAT's in normal circumstances would be very resource intensive for the Council's teams. There is a lot of work in the very early stage around assessing capacity, supporting a group through the application process, and collecting information.

2.5.1.2 If the Council were to identify groups that it was known had the capacity and were ready to go, the process would immediately become easier. However, even with CAT ready groups there would still be a significant level of Council resource requiring to be deployed in terms of;

- coordinating the process in line with the requirements of the Act and associated guidance;
- maintaining regular contact with groups through the assessment process;
- administration associated with individual CAT requests;
- publishing information online, and
- coordinating response.

2.5.1.3 Another big challenge is the capacity of services (i.e. property, legal) to fulfil their role in processing and concluding transfers at pace within their current resources.

2.5.1.4 To ensure success with an increase in the number and complexity of Community Asset transfers, it is suggested that a group of officers would require to be dedicated to support this work including, for example;

- 1 project manager dedicating a proportion of their time to overseeing the work;
- 1 dedicated Community Capacity Building Officer or equivalent to support community and voluntary sector groups with their CAT;
- 1 dedicated Surveyor;
- proportion of time from a lawyer; and
- proportion of time from an administrative post.

## **2.5.2 Financial Capacity**

2.5.2.1 Most groups, even with capacity, would not necessarily have the resources to take on an asset quickly unless it was being transferred or leased for a significantly reduced price or free. Even then, there are still considerations around running costs, service delivery costs, legal costs etc. The Council may also need to consider building this into resourcing considerations.

2.5.2.2 Discounted or free 'asset transfers' and/or rates have been a challenge for the Council as this could be viewed as a capital and/or revenue loss as there is often income from premises.

2.5.2.3 Consideration needs to be taken of the condition of the assets and whether there is any major work required to make them safe and usable. Groups won't necessarily have access to resources for ongoing maintenance and operation of the buildings and may need time to put this in place. To support community organisations, consideration must be given to the level of assistance the Council would provide to address required works.

2.5.2.4 If the approach outlined in this report is approved, and in order to significantly upscale the support in place for Community Asset transfer, Officers will: -

- establish a clear project management approach;
- consider the overall support package required to support community groups;
- through workforce planning, establish a scaled-up team along the lines set out in paragraph 2.5.1.4 of the report.

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## **3. Equality and Diversity**

### **3.1 Fairer Scotland Duty**

3.1.1 The Community Asset Transfer and Participation process assists the Council to deliver on key equalities 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 Council's CAT policy. No concerns have been highlighted as a result of the assessment. Individual Community Asset Transfer and Participation Requests will be subject to Fairer Scotland/Equality Impact Assessment as required.

## 3.2 Equality Impact Assessment

3.2.1 The Community Asset Transfer and Participation process assists the Council to deliver on key equalities 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 Council's CAT policy. No concerns have been highlighted as a result of the assessment. Individual Community Asset Transfer and Participation Requests will be subject to Fairer Scotland/Equality Impact Assessment as required.

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## 4. Implications

### 4.1 Financial Impact

4.1.1 Successful CAT request may impact on the Council's income in terms of revenue income and capital receipt. The implications of this could be both negative and positive and will be considered alongside risk and community benefit to contribute to determining the outcome of a CAT request.

### 4.2 HR/Policy/Legislative Impact

4.2.1 The Community Asset Transfer and Participation requests process has implemented and reviewed, in accordance with the Council's statutory duties as outlined in the Community Empowerment (Scotland) Act 2015 and the Asset Transfer under the Community Empowerment (Scotland) Act 2015 Guidance for Relevant Authorities.

### 4.3 Environmental Impact

4.3.1 The Participation Request and CAT process supports the Council's ability to meet the requirements of the Climate Change (Scotland) Act 2009 public sector duties.

### 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.

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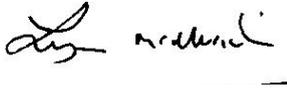
## 5. Measures of success

5.1 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 CAT 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.
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## **6. Supporting documents**

- 6.1 Appendix 1 – Community Asset Transfer (CAT) Assessment Criteria
- 6.2 Appendix 2 – NLC Community Asset Transfer (CAT) Policy
- 6.3 Appendix 3 – Development Trust Association for Scotland (DTAS) Community Asset Transfer (CAT) Roadmap



**Lizanne McMurrich**  
**Head of Communities**

## Community Asset Transfer Request

### Assessment framework

Purpose The purpose of this assessment framework is to support the Community Asset Transfer Panel in making their recommendation for final decision by Committee. The framework is intended to be a guide and is not a final decision-making tool.

CAT Panel participants are expected to complete assessment to the best of their ability and return it in order that the information can be collated and discussed collaboratively to inform a corporate recommendation by Committee

In order to provide some weighting to an application, the following scores are applied:

Very Strong = 10 points

Strong = 8 points

Moderate = 5 points

Weak = 2 points

Very weak = 0 points

Panel members are required to use their professional judgement and the evidence provided to assess the request using the criteria set out. Each of the questions for scoring also include a section where members can note any points **they wish to make, including any points of clarification or requests for additional information.**

Name of Organisation/Applicant	
Details of the Asset	
Area	
Date submitted	
Date of assessment	
Decision date (to meet requirements of the act)	

Recommendation Approve/Reject/ Defer (delete as appropriate)	
Summary comments	
Final Decision	

Summary Grading	Very Strong	Strong	Moderate	Weak	Very Weak
1.Details of the asset					
2.Organisation information					
3.Type of Request					
4.Link to the Plan for North Lanarkshire					
5.Community Proposal					
6.Support					

7.Financial Information					
8.Risk/Social Impact					
<b>1</b>	<b>Details of the Asset – Includes asset status and proposed use</b> <i>This section asks the council to ensure they are in a position to transfer the asset</i>				
	<p>┆ <b>Very Strong:</b> The proposal has a cost saving, does not impact on council direct delivery or service and there are no restrictions on the asset transfer</p> <p>┆ <b>Strong:</b> 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.</p> <p>┆ <b>Moderate:</b> the proposals present 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.</p> <p>┆ <b>Weak:</b> the proposals present difficulties to the council in terms of cost, council direct delivery of services and restrictions on the asset transfer.</p> <p>┆ <b>Very Weak:</b> unlikely to proceed because of ownership restrictions on the asset this would prevent a transfer of responsibility or ownership to another organisation.</p>				
<b>2</b>	<b>Organisational Information – Includes governance and capacity to deliver</b>				
	<p>┆ <b>Very Strong:</b> Applicant has clearly evidenced that they are a robust and viable organisation with effective governance arrangements in place.</p> <p>┆ <b>Strong:</b> Applicant has provided adequate evidence that they are a robust and viable organisation with satisfactory governance arrangements.</p> <p>┆ <b>Moderate:</b> Applicant has evidenced some signs of being robust and viable and partial information provided on governance arrangements.</p> <p>┆ <b>Weak:</b> Applicant has shown no evidence of being robust and viable and no/little information being provided on governance arrangements.</p> <p>┆ <b>Very Weak:</b> Applicant has provided no evidence of being robust or viable. Governance arrangement does not meet the criteria for asset transfer.</p>				
<b>3</b>	<b>Type of request, payment and conditions</b> <i>This section confirms the type of request and seeks and whether the price reflects a fair price for the asset taking into consideration community benefit</i>				
	<p>┆ <b>Very Strong:</b> 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)</p> <p>┆ <b>Strong:</b> Applicant has proposed terms, with prices reflecting Market/Fair Value.</p> <p>┆ <b>Moderate:</b> Applicant has proposed terms, with prices well below Market/Fair Value.</p> <p>┆ <b>Weak:</b> Applicant has failed to propose terms or prices.</p> <p>┆ <b>Very Weak:</b> Applicant unsure of securing funding to afford costs.</p>				

4	<b>Link to Strategy– How the project links into the Plan for North Lanarkshire (TPFNL)</b>
<ul style="list-style-type: none"> <li data-bbox="204 203 1326 271">┆ <b>Very Strong:</b> Applicant has clearly evidenced that their project links into the key themes of TPFNL</li> <li data-bbox="204 315 1350 383">┆ <b>Strong:</b> Satisfactory evidence that the applicant understands the importance of linking to the outcomes of the TPFNL</li> <li data-bbox="204 427 1334 495">┆ <b>Moderate:</b> Limited evidence that the applicant understands the need to ensure the projects reflect one of more of the strands of the TPFNL.</li> <li data-bbox="204 539 1302 562">┆ <b>Weak:</b> Little or no evidence that the applicant has made a clear connection to the TPFNL</li> <li data-bbox="204 607 927 629">┆ <b>Very Weak:</b> Applicant has no understanding of the TPFNL</li> </ul>	
5	<b>Community Proposal – Includes project aims, community engagement and community benefit/need</b>
<ul style="list-style-type: none"> <li data-bbox="204 819 1358 965">┆ <b>Very Strong:</b> 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.</li> <li data-bbox="204 1010 1286 1111">┆ <b>Strong:</b> 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.</li> <li data-bbox="204 1155 1366 1256">┆ <b>Moderate:</b> 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.</li> <li data-bbox="204 1301 1350 1402">┆ <b>Weak:</b> 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.</li> <li data-bbox="204 1447 1326 1514">┆ <b>Very Weak:</b> No description of aims, objectives and vision for the proposal. No reference to community benefit. No evidence of need or demand provided.</li> </ul>	

6	<b>Support – Includes stakeholder engagement and partnership working</b> <i>This section looks Including evidence community and stakeholders have been engaged</i>
<ul style="list-style-type: none"> <li data-bbox="204 1715 1382 1816">┆ <b>Very Strong:</b> 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.</li> <li data-bbox="204 1861 1358 1928">┆ <b>Strong:</b> applicant has evidenced some partnership working arrangements. Relevant links with groups also evidenced along with strong community engagement activity.</li> <li data-bbox="204 1973 1374 2040">┆ <b>Moderate:</b> Applicant has demonstrated limited links with groups and community engagement activity. Some evidence of partnership working provided.</li> <li data-bbox="204 2085 1286 2152">┆ <b>Weak:</b> No/poor evidence of community involvement. No/poor evidence of partnership Working.</li> </ul>	

┌ **Very Weak:** No evidence of community involvement. No evidence of partnership working.

**7** **Financial Information – Includes fundraising, financial planning and management**  
***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.***

┌ **Very Strong:** Clear Evidence that enough 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.

┌ **Strong:** Evidence indicates that enough 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.

┌ **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.

┌ **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.

┌ **Very Weak:** No evidence of financial resources in place. No evidence of resources or financial forecast to predict cash flow.

**8** **Risk/Social Impact – Includes potential impact and barriers/challenges and understanding of managing the asset.**

┌ **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. Enough 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.

**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 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 (i.e. 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 out with 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 publicly available online; and
- the Council or the Scottish Ministers can ask anyone for more information to help them decide. 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 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 signpost 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 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.

