

**All Committee meetings were cancelled with effect from 23<sup>rd</sup> March, 2020 due to the COVID-19 emergency.**

**The recommendations in this report were approved by an Executive Director of the Council, acting under delegated authority in terms of paragraph 2.1.1 of the Council's List of Officer Powers**

21<sup>st</sup> May 2020 (CANCELLED)

Approved by Executive Director, Communities – 12<sup>th</sup> May, 2020

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## Community Asset Transfer Application by Earlsferry Town Hall Ltd – Earlsferry Town Hall

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Report by: Paul Vaughan, Head of Communities and Neighbourhoods  
Ken Gourlay, Head of Assets, Transportation and Environment

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Wards Affected: 19

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### Purpose

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The purpose of this report is to provide information on a formal Community Asset Transfer request received from Earlsferry Town Hall Limited under Part 5 of the Community Empowerment (Scotland) Act 2015 to purchase Earlsferry Town Hall.

### Recommendation(s)

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It is recommended that committee members approve the asset request at less than market value at the price of £31,500 and all otherwise on terms and conditions to the satisfaction of the Head of Assets, Transportation and Environment and the Head of Legal and Democratic Services.

### Resource Implications

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The asset is valued at £100,000. If the request is approved, there will be a potential loss of a capital receipt of £68,500.

### Legal & Risk Implications

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If the request is refused, the unsuccessful applicant may seek a review of the decision to refuse the request. This would be dealt with by the Community Empowerment Act Review Body, with the potential for further appeal to the Scottish Ministers.

### Impact Assessment

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An EqlA is not required because the report does not propose a change to existing policies and practices.

### Consultation

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Earlsferry Town Hall Steering Group (ETHSG) has undertaken community consultation as part of the application process with local residents, businesses and stakeholders. ETHSG, supported by Elie and Earlsferry Community Council, also carried out a Charette to engage with the community. Local ward Members are also aware of the application and are supportive of it.

## 1.0 Background

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- 1.1 Part 5 of the Community Empowerment (Scotland) Act 2015 enables community transfer bodies to request the ownership, lease or management of publicly owned buildings or land. The community transfer body (CTB) and its request must meet the requirements of the Act before the Council can validate and consider the request.
- 1.2 Earlsferry Town Hall is a B listed building built in 1872 on the site of an old townhouse dating from 1772. The steeple from the old townhouse is incorporated into the building and is therefore of historic importance to the community. The Hall is held on the common good account and legal services have advised that the consent of the Sheriff will require to be obtained prior to any sale. A community consultation regarding the disposal of the Hall from the common good commenced on 14<sup>th</sup> April in terms of Section 104 of the Community Empowerment (Scotland) Act 2015.
- 1.3 The Town Hall is the only community space in the village. It is under-used and falling into disrepair. Due to its age and condition, a full insuring and repairing lease was deemed not be financially viable for the organisation. A community asset transfer would allow the organisation to purchase the building and seek grant funding to bring it up to a modern and accessible standard for use by the local community for a variety of social and leisure activities.

## 2.0 Process for Dealing with Community Asset Transfer Applications

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- 2.1 Part 5 of the Community Empowerment (Scotland) Act (the “Act”) came into force on January 2017. The Act provides a process for community bodies to request the sale, lease or management of buildings and land within the ownership of public authorities. The Council has a two-stage process for dealing with (1) CAT enquiries and (2) formal CAT requests. Stage 1 is not required in terms of the Act but encourages organisations to make an informal application in order for the Council to assess the extent of any advice or support necessary for organisations to make the most of the opportunities that the Act offers. A Community Transfer Body can submit a formal request in terms of the Act at any time. The Community Asset Transfer Team has set up an evaluation panel to evaluate and score requests in accordance with the criteria set down by the Act. A scoring matrix has been developed in order to allow requests to be evaluated objectively, fairly and transparently. The evaluation panel will score a request and make a recommendation to either accept or reject a request.
- 2.2 Section 82 (5) of the Act states that an authority must agree to a request unless there are reasonable grounds for refusing it. Reasonable grounds for refusal must be determined in the circumstances of each individual case. However, they are likely to include cases where:
  - the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal;
  - where agreeing to the request would restrict the relevant authority’s ability

- to carry out its functions; or
- failure to demonstrate the benefits or delivery of the proposal.

2.3 Once the Committee decides to either approve or refuse the application, the Act requires that the Decision Notice states reasons for the decision reached by the Committee. These are set out in Appendix 1.

### **3.0 CAT Application by Earlsferry Town Hall Limited**

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- 3.1 Earlsferry Town Hall Steering Group, predecessor to Earlsferry Town Hall Limited (ETHL), has been delivering services in the community for over two years. It was responsible for organising a variety of activities such as cinema screenings, exercise classes, concerts, Burns nights and educational talks. Although the hall is still in use it is not accessible to disabled people and, without significant expenditure, it will fall into disrepair. ETHSG was not an appropriate vehicle to apply for asset transfer therefore they set up a new community transfer body, Earlsferry Town Hall Limited, as a company limited by guarantee and Scottish registered charity. ETHL have applied to purchase the property with a view to upgrading the Hall to enable disabled access, provide a venue for sporting and after school activities and to make it a more attractive venue for larger village events, such as a cinema club, wine club and for educational talks.
- 3.2 A wide ranging public consultation was undertaken seeking the views of the local community on the potential use of the building, in addition to a feasibility study which was undertaken in 2018. There is considerable support to take the hall into community ownership and the feasibility study identified community needs including: a multi-purpose community space to provide a kids club and opportunities for young people to enjoy after school activities, rehabilitation and exercise classes to improve public health and wellbeing; social clubs such as bridge and gardening to reduce social isolation; a community venue to provide activities to improve health and wellbeing for an ageing population; a community hub allowing the community to become contributors to services; provide volunteering opportunities and develop volunteering skills for young people.
- 3.3 ETHL will also consider using the hall as (i) a commercial facility for occasional office / meeting space to support those people who work from home and (ii) a venue for weddings and private parties. If the asset transfer is successful, ETHL will modernise the hall and provide wheelchair access, modernise the kitchen and toilet facilities and provide meeting rooms. ETHL is offering to purchase the hall for £31,500.

### **4.0 Community Empowerment Act Evaluation**

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- 4.1 The CAT evaluation panel individually scored the ETHL's request and discussed the request at a consensus evaluation and scoring meeting on 2<sup>nd</sup> April 2020. The panel considered the request using evaluation criteria as laid down by the Act. A copy of the completed scoring matrix is attached at Appendix 2. The panel considered that the Trust's proposal would:

- (a) Bring an underused historic building back into wider community use and regenerate the area by carrying out much needed refurbishment and improvements;
  - (b) Promote economic development by increasing visitor footfall through providing a venue for weddings and private parties which would then link into use of local businesses for provision of services;
  - (c) Improve public health through the provision of activities and sport/fitness classes;
  - (d) Improve social wellbeing by providing access to local cinema, concerts, and other activity based clubs which are also accessible by the older population;
  - (e) Improve environmental wellbeing through the reduction of local car journeys as local activities are more accessible;
  - (f) Reduce inequalities by providing disabled access, access to kids club and after school activities, delivering volunteer training opportunities.
- 4.2 The price offered by ETHL is £31,500. The market value of the Hall is considered to be £100,000 based on the valuation report provided by Allied Scotland, Chartered Surveyors. Accordingly, the proposed disposal does not represent the best consideration that the Council could obtain for this property.
- 4.3 However, under the Community Empowerment (Scotland) Act 2015, the CAT evaluation panel decided that:
- (i) The Feasibility Study demonstrated that an accessible community space was required for the delivery of activities and space for events;
  - (ii) Community consultation demonstrated the support of the community for the proposal;
  - (iii) ETHSG have been operating in the community for over 2 years and have worked with the community and stakeholders to develop a sustainable business plan to deliver the proposal. Skills gaps were identified and filled in order to set up ETHL to acquire the Hall;
  - (iv) ETHL have demonstrated their application for Scottish Land Fund grant funding, along with other funding, in order to fund their acquisition. They have demonstrated realistic projections of income and expenditure over the next 5 years to sustain the proposal;
  - (v) ETHL received a consensus score of 66 points out of a maximum of 104 points and the panel recommended approval of the transfer on the basis of conditions to be confirmed by the Head of Assets, Transportation and Environment.

## **5.0 Disposal of Properties for Less than Best Consideration**

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- 5.1 Where the Council is considering a proposal that land (or buildings) be disposed of at 'less than the best consideration that can reasonably be obtained, in situations like the current one, it needs to follow the process set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

The process consists of three steps:

- The Council must appraise and compare the costs and other disbenefits and the benefits of the proposal;
- Be satisfied that the disposal for that consideration is reasonable; and
- Be satisfied that, as regards some or all of the local authority area or persons resident or present there, the disposal is likely to contribute to the promotion of improvement of economic development or regeneration; health; social well-being; or environmental well-being.

5.2 The asset has been valued at £100,000 and ETHL has offered a purchase price of £31,500.

5.3 The benefits of the application are that:

- ETHL will repair, renew and regenerate the Hall to make it accessible and modernise the facilities with a view to providing a range of social and leisure activities catering for a range of age groups;
- By providing a venue for weddings and private parties the local economy will benefit from associated supply and business opportunities;
- The transfer of the hall to ETHL will relieve Fife Council of all financial responsibility for the Hall, including caretaker costs and annual running/maintenance costs;
- It will improve public health by providing a community space for fitness and sporting activities; it will improve social wellbeing by providing accessible space for community based activities such as local cinema, wine club, garden club; it will reduce isolation for older people by delivering activities locally; it will include the younger community and support parents by providing kids club, after school activities and volunteering and training opportunities. .

5.4 The disbenefits are as follows:

- The loss of circa £68,500 from the disposal at less than market value.

Comparison: The panel considered that, over the course of a 10-year period given the range of services to be provided to the local community and bringing the building up to an accessible and modern standard, the level of discount was justified. It is therefore considered that disposal for that consideration is reasonable.

Further, it is considered that the disposal is likely to contribute to the improvement of health, inclusion and independence of an ageing population and provide social and leisure facilities to the local community. Securing grant funding will enable the building to be modernised and made more attractive and accessible as a community venue.

## 6.0 Conclusions

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- 6.1 Following evaluation of the CAT request in terms of the Act the evaluation panel and CAT team are recommending the disposal of Earlsferry Town Hall to ETHL on the basis that the request will enable them to upgrade and modernise the Hall with a view to providing a community hub for a range of activities inclusive of the whole community.

### Appendices

1. Reasons for Approval or Refusal of Asset
2. Scoring Matrix

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Approval of request

Matters to be considered

1. Has the organisation demonstrated the need for the proposal in their community?  
Does it have community support?

2. Benefits of the request

The Council needs to consider whether agreeing to the proposal would be likely to promote or improve:

- Economic development
- Regeneration
- Public Health
- Social well-being
- Environmental well-being, or

Reduce inequality of outcome which result from socio-economic disadvantage.

3. Ability to deliver

The Council must consider whether the proposal is sustainable and whether the organisation has the ability to deliver. Has the organisation:

- provided evidence on how they intended to fund the proposal. Have they identified all costs associated with delivering the proposal and how these would be covered in the short and long term?
- provided evidence of the appropriate skills and experience required to manage and maintain the asset.
- Demonstrated that the projected benefits were based on robust information and the proposal demonstrated value for money.

4. Will the proposal restrict the delivery of the Council's functions?

Consider whether the proposal will contribute to achieving local and national outcomes.

5. Is there an alternative proposal?

This can be another community asset transfer request or the Council's own requirement for the asset. Assess the benefits of the request against those of the alternative proposal.



## Refusal of request

### Matters to be considered

1. Has the organisation demonstrated the need for the proposal in their community? Does it have community support? If the proposal has attracted opposition and causes division within the community then it does not have a net benefit.

2. Benefits of the request

The Council needs to consider whether agreeing to the proposal would be likely to promote or improve:

- Economic development
- Regeneration
- Public Health
- Social well-being
- Environmental well-being, or

Reduce inequality of outcome which result from socio-economic disadvantage.

3. Ability to deliver

The Council must consider whether the proposal is sustainable and whether the organisation has the ability to deliver. Has the organisation:

- provided evidence on how they intended to fund the proposal. Have they identified all costs associated with delivering the proposal and how these would be covered in the short and long term?
- provided evidence of the appropriate skills and experience required to manage and maintain the asset.
- Demonstrated that the projected benefits were based on robust information and the proposal demonstrated value for money.
- What is the impact of project failure?

4. Will the proposal restrict the delivery of the Council's functions?

Will there be an unacceptable impact on the Council's ability to deliver its functions? For example, it may interfere with operations or require the Council to put alternative arrangements in place at substantial cost.

5. Is there an alternative proposal?

This can be another community asset transfer request or the Council's own requirement for the asset. Assess the benefits of the request against those of the alternative proposal.

6. Other obligations or restrictions

Is the asset leased by the Council and there are restrictions on assignation or subletting? Is the asset common good and consent from the Sheriff is required? This would not prevent the transfer but there would be additional cost involved in obtaining consents. Consider whether this cost would have to be met by the organisation.

**Scoring Matrix for Stage 2 Applications under Part 5 –  
Community Empowerment (S) Act 2015**

**Name of applicant:** Earlsferry Town Hall Ltd

**Asset being applied for:** Earlsferry Town Hall

| <b>Assessment Criteria</b>   | <b>Score</b> |
|--|--------------|
| <b>Section A – About the Proposal</b>  | 3            |
| A.1 - Are the aims and objectives of the proposal clearly defined?   |              |
| A.2 - Has the organisation described what services they will deliver and explained why they are required?  | 3            |
| A.3 - Has the organisation described why they require the asset and what difference this will make to delivery of services in their area?  | 3            |
| A.4 - How does the proposal compare with similar services being delivered in the same area? What is the additionality/displacement?  | 3            |
| <b>Section B – Wider support and wider public support</b>  | 3            |
| B.1 - Has the applicant organisation demonstrated that there is sufficient demand for the proposal?  |              |
| B.2 - Local community support<br>Has the organisation demonstrated that there is sufficient support from the local community? This should be based on widespread consultation of those who would be served by the asset as well as support from community partners. Evidence of stakeholder consultation is required including details of who was consulted, how, what the response was etc. | 3            |
| B.3 - Partnerships - Has the organisation provided details of any partnership arrangements required to deliver the proposal successfully?  | 2            |
| B.4 - Equality - Has the organisation demonstrated how it will take into account the different needs of the community? Does the application demonstrate where a proposal may reduce inequalities?  | 2            |
| <b>Section C - Impact/ Benefits</b>  | 3            |
| C.1 - Assess whether agreeing to the request would be likely to:<br><br>promotes or improve: <ul style="list-style-type: none"> <li>• Economic development</li> <li>• Regeneration</li> <li>• Public health</li> <li>• Social well-being</li> <li>• Environmental well-being</li> <li>• Reduce inequalities</li> </ul>   |              |

|   |   |
|---|---|
|   |   |
| <b>Section D – Organisational Viability</b>   | 2 |
| D.1 - Has the organisation demonstrated that they have experience of managing an asset?   |   |
| D.2 - Has the organisation demonstrated that they have experience in delivering the proposed services?  | 3 |
| D.3 - Has the organisation provided details of individuals who have the skills to a) manage the project b) run and manage the asset? This should include details of the individual skills and experience.   | 3 |
| D.4 - Has the organisation demonstrated they have clear governance and decision-making procedures for managing the asset and delivering the services e.g. there needs to be a clear process for making decisions including who will be responsible for booking rooms, dealing with site problems, compliance with legal issues such as health and safety.                           | 2 |
| D.5 - Has the organisation demonstrated they have a clear understanding as to what is required in relation to managing an asset? E.g. insurance, maintenance of the building, boilers, firefighting equipment and electrical items, EPC, legionella testing etc.  | 2 |
| D.6 - Has the organisation provided details of the monitoring arrangements to be put in place to ensure the project delivers its key objectives?  | 3 |
| <b>Section E – Financial Information</b>  | 2 |
| E.1 - Has the applicant organisation provided their projected income and expenditure and cash flow forecasts? Have they demonstrated there is sufficient projected cash flow to show the proposal is financially viable?  |   |
| E.2 - Has the organisation demonstrated the need as to why the asset should be transferred at less than best consideration?   | 2 |
| E.3 - Use of Resources<br>Has the organisation identified all the resources required to deliver the benefit?<br>Consider: <ul style="list-style-type: none"> <li>• Funding obtained so far</li> <li>• Funding and support required from the Council</li> <li>• Other sources of funding</li> <li>• Number of employees or volunteers available to run/maintain the asset</li> </ul> | 2 |
| E.4 - Has the organisation demonstrated prioritisation of resources in the longer term in order to contribute to sustainable development? Demonstrate future funding or self-financing arrangements. Are the assumptions credible/ evidenced?   | 2 |
| <b>Section F – Property</b>   | 2 |
| F.1 - If the organisation seeks a discount then the benefit of the request should be proportionate to the value of the asset and the level of discount. Has the discount been justified?  |   |

|  |   |
|--|---|
| F.2 - Will the project have an overall financial benefit on public sector costs (e.g. removes the maintenance burden from the Council)   | 2 |
| F.3 – Has sufficient consideration been given to property costs?   | 2 |
| F.4 – Has the organisation provided sufficient evidence that they merit and can sustain exclusive use of the asset (based on current user information provided)?                               | 3 |
| <b>G. Local and National Outcomes</b>  | 3 |
| G.1 - Consider how the proposed benefits of the asset transfer request will contribute to achieving the Council's outcomes or to national outcomes more generally.                             |   |
| G.2 - Consider how the proposal will impact on the Council's own delivery of services.   | 3 |
| G.3 - To what extent does the proposal contribute to local or national priorities? Produce a clear plan for achieving intended outcomes (ideally showing links to local or national outcomes), | 3 |

**Total score: 66 / 104 (63%)**

### Assessment Scoring Matrix

**To assess proposed use and financial arrangements for the asset. Must be proportionate and appropriate.**

|                 |  |
|-----------------|--|
| -2              | Has negative impact on the Councils activities   |
| -1              | Has negative impact on existing provision/ existing benefit  |
| 0 = Poor        | Little or no response in regard to the submission with ill-defined unrealistic ambitions   |
| 1 = Weak        | The submission contains only minor detail and is not based on robust information   |
| 2 – Moderate    | The submission provides a level of detail which enables understanding with acceptable projected benefits   |
| 3 = Strong      | The submission provides sufficient evidence that the issue has been considered with sound, sustainable Best Value characteristics  |
| 4 = Very Strong | The applicant has included all issues in the submission and has provided additional information which enables detailed understanding with strong and sustainable Best Value characteristics with robust related project benefits |