

All Committee meetings were cancelled with effect from 23rd 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

21st May 2020 (CANCELLED)

Approved by Executive Director, Communities – 21st May, 2020

Community Asset Transfer Application by Forgan Arts Centre – Leng Home, Newport-on-Tay

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

Wards Affected: 17

Purpose

The purpose of this report is to seek approval to a Community Asset Transfer request received from Forgan Arts Centre (FAC) under Part 5 of the Community Empowerment (Scotland) Act 2015 to purchase Leng Resource Centre, Newport-on-Tay.

Recommendation(s)

It is recommended that committee members approve the asset transfer request at less than market value at the price of £200,000.

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

If the request is approved, there will be a potential loss of a capital receipt of £240,000.

There will be a cost, to the Council still to be determined, for accommodation to house the activities formerly undertaken at the Leng Home.

Legal & Risk Implications

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.

There is a risk of not securing alternative accommodation at the Larick Centre as lease negotiations have not been finalised.

Impact Assessment

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

Consultation

The FAC has undertaken consultation with its members, the local community, community council and stakeholders as part of the application process. Local ward Members are also aware of the application and are supportive of it.

Fife Council, as required under Community Empowerment legislation, notified the local community of the request for community asset transfer. 37 representations were received, 36 in support of the transfer and 1 objection from a property developer with an interest in the Leng Home. A neighbour, while supportive in principal, raised some concerns about vehicular access. Based on the representations received and the response from FAC the panel decided no further action was required.

1.0 Background

- 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 Established forty two years ago, Forgan Arts Centre (FAC) delivers arts and crafts courses and classes in the Tay Bridgehead area. Initially operating 22 weeks of the year, FAC has increased its offer to 50 weeks. It has now outgrown its current premises and has waiting lists for its classes. FAC has submitted a stage 2 community asset transfer request for Leng Home, Newport-on-Tay in order to continue to deliver current activities, increase and diversify into new activities and provide up to date facilities for social and commercial space.
- 1.3 The Leng Home building was gifted to the Council in 1953 and has been utilised by the Council since then to provide a range of social services, initially operating as a care home but most recently offering day care services. Day Care Services are to relocate to the new Larick Centre in Tayport. The terms of the lease are to be finalised.

2.0 Process for Dealing with Community Asset Transfer Applications

- 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 Forgan Arts Centre

- 3.1 FAC was established forty-two years ago and has been successful in providing a range of arts and crafts activities in the Tay Bridgehead area. With a membership of 260 people and growing, the organisation is now operating at full capacity, providing over 30 weekly classes plus up to 15 workshops each term over 50 weeks each year. There are waiting lists for many of the activities and the organisation has outgrown its current premises. Activities are currently provided from three multi-purpose classrooms, a small office, kilns and an external storage shed.
- 3.2 FAC offers 32 classes, supporting over 290 people each week in addition to a further 12 weekend workshops which often attracts around 50 new people to the Centre. The kids art and ceramics clubs run throughout each of the Fife school holidays supporting 125 children and their families each term. Around 110 people are unable to attend the Centre's programmes due to lack of space.
- 3.3 Due to additional demand and in line with community consultation, the acquisition of Leng Home will enable FAC to expand over the next three to five years to provide a range of other services and activities including: rehearsal space and recording studio offering a music programme of classes and events; woodwork and woodturning; 'upcycling' facility; drama classes and a club. In addition, FAC aims to address health and wellbeing within the community by offering cooking and baking classes; team workshops; a community café; retail shop for artists' paintings, pottery and crafts; artists studios and gallery and limited hot desking facilities to third sector organisations.
- 3.4 The organisation has offered a purchase price of £200,000 for Leng Home. This will enable the organisation to expand and meet community need; increase the range and volume of classes, workshops and events; apply for funding to support additional activities and build new partnerships with businesses, artists and social enterprises. In line with the Plan for Fife aspirations, Leng Home will enable FAC to be more inclusive and provide opportunities for all through providing a wider range of classes and activities; improve health and wellbeing; increasing the quality of life of older people; reducing inequality particularly for low income families by offering discount schemes and free places to access training and work experience.

4.0 Community Empowerment (Sc) Act Evaluation

- 4.1 The CAT evaluation panel individually scored the Trust's application followed by a consensus evaluation and scoring meeting held on 14th 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 Forgan Arts Centre's proposal would:
- Regenerate an underused building and use the Asset and surrounding grounds to maximise use and availability;
 - Contribute to economic development by providing employment and volunteering opportunities;
 - Enhance health and wellbeing by providing activities and events to meet the needs of the local and wider community including older and younger people and low income families;
 - Enable partnership working to create a hub where additional services can be provided including hot-desking space for third sector organisations and music and drama clubs;
 - Increase community benefit and increased opportunities for local artists to build awareness of their work.
 - Improve environmental wellbeing through use of green technology, waste management and provision of green solutions in running the Asset.

The price offered by Forgan Arts Centre is £200,000. The market value of the asset is considered to be £440,000.

- 4.2 Under the Community Empowerment (Scotland) Act 2015, the CAT evaluation panel decided that:
- (i) FAC would be able to meet an increasing demand for artistic and cultural activities;
 - (ii) There was support from the members, local community and stakeholders for the proposal;
 - (iii) FAC have been established and operating for 42 years and have a robust governance allowing them the resilience and experience to deliver the proposal;
 - (iv) They have demonstrated that, with support from the Scottish Land Fund and fundraising they have sufficient funds to purchase the Asset and they have demonstrated realistic projections of income and expenditure for the next 5 years to deliver and sustain the proposal.

Forgan Arts Centre received a consensus score of 67 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 Legal and Democratic Services and the Head of Assets, Transportation and Environment.

5.0 Disposal of Properties for Less than Best Consideration

- 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 £440,000 and Forgan Arts Centre has offered a purchase price of £200,000.

The benefits of the application are that an underused building will be used to its maximum potential; artistic and cultural services will be provided and expanded to meet local and wider demand improving public health and mental wellbeing; social spaces, including a café, will reduce social isolation; reduced cost and free classes offered to low income families will reduce inequalities; the Asset will be invested in, improved and made more accessible to the public; space will be provided to other third sector groups and charities to deliver their services; investment in green technology and environmental education, use of outdoor space for community gardening will all improve environmental wellbeing; expansion of services means an increase in volunteering and employment opportunities with associated training thereby improving economic development.

Disbenefits are the loss of circa £240,000 from the disposal at less than market value of £440,000.

Comparison: The panel considered that, over the course of a 10 year period given the range of services to be provided for the community, the level of discount was justified. It is therefore considered that disposal for that consideration is reasonable.

Further, after comparing the potential benefits and disbenefits the CAT assessment panel is satisfied that the disposal should take place as the benefits outweigh the disbenefits as agreeing to the request will:

- (i) provide larger premises for FAC to deliver existing cultural and artistic activities and expand and diversify activities to meet demand;
- (ii) refurbish and improve the asset and use outdoor space for community gardening and events;
- (iii) create a community hive and café providing a social space to reduce social isolation; and
- (iv) open up space for artist studios and flexible hot desk space for home workers.

In summary, the community benefit in agreeing to the request outweighs the Council's requirement for the asset.

6.0 Conclusion

- 6.1 Following evaluation of the CAT request in terms of the Act the evaluation panel and CAT team are recommending the disposal of Leng Resource Centre to Forgan Arts Centre as it will deliver artistic and cultural services, create a multi-use and multi-generational facility which increases health and wellbeing; improve the quality of life for older people and reduce inequality of outcome by providing greater access to facilities and classes for low income families.

Appendices

1. Reasons for Approval or Refusal of Request
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: Forgan Arts Centre

Asset being applied for: Leng Home, Newport-on-Tay

Assessment Criteria	Score
<p>Section A – About the Proposal</p> <p>A.1 - Are the aims and objectives of the proposal clearly defined?</p>	3
<p>A.2 - Has the organisation described what services they will deliver and explained why they are required?</p>	3
<p>A.3 - Has the organisation described why they require the asset and what difference this will make to delivery of services in their area?</p>	3
<p>A.4 - How does the proposal compare with similar services being delivered in the same area? What is the additionality/displacement?</p>	2
<p>Section B – Wider support and wider public support</p> <p>B.1 - Has the applicant organisation demonstrated that there is sufficient demand for the proposal?</p>	3
<p>B.2 - Local community support</p> <p>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.</p>	3
<p>B.3 - Partnerships - Has the organisation provided details of any partnership arrangements required to deliver the proposal successfully?</p>	2
<p>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?</p>	2
<p>Section C - Impact/ Benefits</p> <p>C.1 - Assess whether agreeing to the request would be likely to:</p> <p>promotes or improve:</p> <ul style="list-style-type: none"> • Economic development • Regeneration • Public health • Social well-being • Environmental well-being • Reduce inequalities 	3

<p>Section D – Organisational Viability</p> <p>D.1 - Has the organisation demonstrated that they have experience of managing an asset?</p>	3
<p>D.2 - Has the organisation demonstrated that they have experience in delivering the proposed services?</p>	3
<p>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.</p>	3
<p>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.</p>	3
<p>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.</p>	3
<p>D.6 - Has the organisation provided details of the monitoring arrangements to be put in place to ensure the project delivers its key objectives?</p>	2
<p>Section E – Financial Information</p> <p>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?</p>	2
<p>E.2 - Has the organisation demonstrated the need as to why the asset should be transferred at less than best consideration?</p>	3
<p>E.3 - Use of Resources</p> <p>Has the organisation identified all the resources required to deliver the benefit?</p> <p>Consider:</p> <ul style="list-style-type: none"> • Funding obtained so far • Funding and support required from the Council • Other sources of funding • Number of employees or volunteers available to run/maintain the asset 	2
<p>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?</p>	2
<p>Section F – Property</p> <p>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?</p>	2

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?	3
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
G. Local and National Outcomes	2
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.	2
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: 67 / 104

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