



## Report to the Scottish Ministers

### COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

---

Report by Allison Coard, a reporter appointed by the Scottish Ministers

- Case reference: CAT-120-1
- Site Address: Invertay House, 3 Maule Street, Monifieth, DD5 4JS
- Appeal by Carnoustie and Monifieth Men's Shed against the decision by Angus Council  
□ Community Asset Transfer Application dated 22 October 2018 refused by decision dated 5 April 2019 as confirmed through the Review Decision Notice dated 17 December 2019.
- The proposal is for lease of a council owned property for use as a Men's Shed □ Date of site visit: No visit undertaken

Date of this report and recommendation: 9 July 2020

---

4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR



## CONTENTS

|                                   | <b>Page</b> |
|-----------------------------------|-------------|
| Summary Report                    | 2           |
|                                   |             |
| Preamble                          | 5           |
|                                   |             |
|                                   |             |
| <b>Chapters</b>                   |             |
| 1. Background                     | 6           |
| 2. The appellant's case           | 9           |
| 3. The council's case             | 14          |
| 4. Conclusions and recommendation | 18          |



|   |   |
|---|---|
| <input type="checkbox"/> Case reference             | CAT-120-1   |
| <input type="checkbox"/> Case type                  | Community asset transfer request                          |
| <input type="checkbox"/> Reporter                   | Allison Coard   |
| <input type="checkbox"/> Appellant                  | Carnoustie And Monifieth Men's Shed                       |
| <input type="checkbox"/> Planning authority         | Angus Council   |
| <input type="checkbox"/> Other parties              | One letter of representation                              |
| <input type="checkbox"/> Date of application        | 22 October 2018   |
| <input type="checkbox"/> Date case received by DPEA | 9 January 2020  |
| <input type="checkbox"/> Method of consideration    | Written submissions                                       |
| <input type="checkbox"/> Date of report             | 9 July 2020   |
| <input type="checkbox"/> Reporter's recommendation  | That the Community Asset Transfer application be refused. |

## The proposal

The Carnoustie and Monifieth Men's Shed group have applied for a Community Asset Transfer for the former machine room and some of the adjacent land and buildings at Invertay House. The proposal under section 79(2)(b)(i) of the Act is for a 15 years lease. It is proposed to use the premises to develop and maintain the established Men's Shed.

## The application site

The site includes the area rented at present from Angus Council known as the Machine Room. The other section of the same building which was previously used by the council, the two lock up garages and the ground extending to the boundary with Maule Street to the north, the boundary wall of No 5 to the west, the boundary of the Swallow apartments to the south and an area of the car park to be negotiated are also included in the application. The adjacent Invertay House is a Category B Listed Building.

## The appellant's case

The purpose of the organisation is to provide recreational facilities and advance the social needs, health and well-being of men of all ages and backgrounds living in Carnoustie, Monifieth and surrounding areas.

The Men's shed is already in operation and the transfer would allow future consolidation and development of what has been achieved in the last three years. The move into the Machine Room on 1 June 2017 enabled installation of equipment in a space that was attractive and suited to the purpose. Membership has since doubled from 13 to 26. There is now a need to expand to develop the work of the Shed and to ensure good health and safety standards.

Direct monetary comparison between any alternative housing development and the Men's Shed function requires consideration of the "social return on investment". Community projects can deliver several times their monetary cost in social value. The facility could exist alongside wider redevelopment of the site including housing. Best value is demonstrated in making a real contribution to the community, getting the most value from contributors and securing continuous improvement through learning and mentoring. The proposal contributes to sustainability and "National Outcomes".

### **The council's case**

The Committee had regard to the considerations noted within section 82 of the Community Empowerment (Scotland) Act 2015. There was an alternative proposal to consider alongside the request and this had a particular impact on the decision which was made by the Committee and the Review Committee. The alternative proposal was to use the entire site for housing development.

The alternative proposal of using the site for housing is supported by the council's Local Housing Strategy and presents the best value in terms of community and financial benefit. There were reasonable grounds to refuse the request made by the group. The council continues to engage with the Men's Shed group to try to find suitable alternative accommodation. Transfer of the site to the council's Housing Revenue account for delivery of 35 affordable houses is likely to prove better value overall.

### **Other**

One note of objection was received from a neighbouring resident. The grounds of objections were: lack of privacy/intrusion of privacy, machinery noise, paint and spray fumes, devaluation of private property and inappropriate toilet facilities.

### **Conclusions and Recommendations**

From my assessment against the Section 82 criteria as set out in the Act I find:

- there are clear reasons for the request;
- there would be a contribution to economic development, regeneration, public health, social and environmental wellbeing;
- there would be a contribution to tackling inequality and socio-economic disadvantage; and

- there would be wider community benefit including support for and from other community services and groups.

Balanced against these considerable benefits I find:

- proposals for housing development of the site are being advanced;
- housing has considerable social and economic benefits for the local area; and
- the council's case for housing represents the better value use of the site and its overall benefits outweigh those evidenced were this community asset transfer to proceed.

I have also considered the proposal in terms of its contribution to National Outcomes and whilst I find a positive contribution to many of the themes, alternative use as housing presents the stronger contribution to the stated outcomes. This reflects the scale of investment and employment and the benefits of increased access to housing that would accrue from the alternative use proposed by the council. Consequently I consider there are reasonable grounds for refusal of the request.

I recommend that the appeal be dismissed and the Community Asset Transfer request be refused. Should Ministers be minded to uphold the appeal it would be for Ministers to consider any appropriate conditions to be applied or legal agreement concluded in order to protect the council's position in line with Chapter 14 of the Scottish Government's Asset Transfer Guidance for Relevant Authorities.

Scottish Government  
Planning and Environmental Appeals Division  
4 The Courtyard  
Callendar Business Park  
Callendar Road  
Falkirk  
FK1 1XR

DPEA case reference: CAT- 120-1

The Scottish Ministers  
Edinburgh

Ministers

In accordance with my minute of appointment dated 24 January 2020 I have conducted an examination of this Community Asset Transfer Appeal. The appeal is against the refusal by Angus Council of a community asset transfer request by the Carnoustie and Monifieth Men's Shed. The proposal is for use of the site at Invertay House to allow continued use and growth of the provision of a Men's Shed facility to serve the local community.

My report takes account of the appellant's asset transfer request dated 15 October 2018; the council's decision to refuse the request on 5 April 2019; the appellant's request for a review 30 April 2019; the council's decision to confirm its original decision dated 17 December 2019; the appellant's appeal submissions dated 9 January 2020 and the council's response to the appeal dated 30 January 2020. I have also taken account of key documents associated with these principal stages of the request, refusal and review.

I originally planned an accompanied site visit in March 2020. Unfortunately that visit had to be cancelled given restrictions imposed through the COVID-19 circumstances. However additional photographic and other material was provided. I consider this has enabled me to gain sufficient understanding of the site and the operation of the Men's Shed without the need to carry out a site visit.

My report is laid out in four chapters. The first outlines background information, the second summarises the appellant's case, the third summarises the council's case and the fourth provides my conclusions and recommendation.

## **CHAPTER 1: BACKGROUND AND STATUTORY CONTEXT**

### The proposal

1.1 To continue to provide and expand the Men's Shed facility to provide recreational facilities and to advance the social needs, health and wellbeing of men living in Carnoustie and Monifieth. The site

1.2 The subject of the report concerns part of the site of Invertay House, Monifieth. [Appendix 1 to report 101/19](#) shows the application site being the former machine room, IT room and 2 lock up garages plus the area of ground between these buildings and the property at 5 Maule Road. The area comprises:

- (a) the area presently rented from Angus Council by the Men's Shed, known as the Machine Room;
- (b) the other section of the same building which was previously used by the council;
- (c) the two lock-up garages (B and C on the plan);
- (d) all the ground extending to the boundary with Maule Street to the north, the boundary wall of No 5 to the west, the boundary of the Swallow apartments to the south; and
- (e) area of the car park to be negotiated.

#### Consideration by the Council

1.3 The application only concerns part of a larger site which is assessed as surplus to the requirements of the council's General Fund as held by its Revenues and Benefits Service. As a consequence it is intended either to be part of this Community Asset Proposal or appropriated to the council as Housing Authority.

1.4 The Council's Housing Service has expressed an interest in acquiring the entire site including the surrounding grounds and car parks with a view to this being used to provide affordable housing in the area. This potential project (35 units) is included in the Council's Strategic Housing Investment Plan (SHIP) 2019/20 to 2023/24 approved by the Communities Committee on 13 November 2018.

1.5 The Carnoustie and Monifieth Men's Shed group have an existing month to month lease from the Council (paying £525 p.a.) and are currently operating from the former Machine Room premises. The application covers this facility and an additional building, lock up garages and land.

1.6 The group wish to take a lease for 15 years of this asset. [The group's application](#) was confirmed as valid in line with the legislation on 22 October 2018. The application has been subject to public notices and has been assessed in line with the national guidance and the council's assessment process. The group originally sought the right to purchase the land and buildings proposed for lease within the period of the lease. However, this was not considered as part of the council's assessment. If the lease request had been approved the council advised that any option to purchase was refused and a condition was imposed that any such purchase request should be subject to a new CAT application and considered accordingly.

1.7 Both the original Committee and the Review Committee determined that an alternative use of the site, namely the provision of council housing, provided better overall value. The Review Committee were supportive of the request submitted by the Men's Shed and encouraged officers of the Council to work with the group to look at alternative accommodation during the transition period. There were no material considerations that were deemed to warrant approval of the application and there were reasonable grounds to refuse the request, namely that an alternative proposal was deemed to provide greater

overall benefit. [The decision notice](#) of the review committee was issued on 17 December 2019.

### Legislative context

1.8 Sections 77 to 97 of The Community Empowerment (Scotland) Act 2015 (the Act) provide for a community transfer body to make a request to the council for the transfer of ownership, lease or other rights of land or property. In this case a transfer of the lease is sought.

1.9 The community transfer body must specify the benefits which it considers will arise if the request is agreed and how much it is prepared to pay for the asset. The Act requires the council in this case, to assess requests against specified criteria and to agree to the request unless there are reasonable grounds for refusal.

1.10 The community transfer body in this case is as defined in the Act as being either a community controlled body or a body designated by the Scottish Ministers. A community transfer body making an asset transfer request for ownership must be incorporated as a company, a Scottish Charitable Incorporated Organisation or a community benefit society with a minimum of 20 members and a provision for transfer of its assets upon winding up.

1.11 An asset transfer request must be accompanied by a copy of the community transfer body's constitution or other governance documents. [A copy of the constitution](#) of Carnoustie and Monifieth Men's Shed is provided through document 1a on the case file.

1.12 The relevant authority must decide whether to agree or refuse the request. The specified criteria which must be taken into account in determining this appeal are as follows: a. the reasons for the request;

b. any other information provided in support of the request;

c. whether agreeing to the request would be likely to promote or improve – (i) economic development, (ii) regeneration, (iii) public health, (iv) social wellbeing, or (v) environmental wellbeing;

d. whether agreeing to the request would be likely to reduce inequalities of outcome which result in socio-economic disadvantage;

e. any other benefits which might arise if the request were agreed to;

f. any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates and how those benefits compare with those arising from the asset transfer proposal;

g. how any benefits from an alternative proposal relate to other matters the authority considers relevant (including, in particular, the functions and purposes of the authority);

h. any obligations imposed on the authority, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect its ability to agree to the request; and such other matters (whether or not included in or arising out of the request) as the authority considers relevant.

1.13 Decisions must be made in a way that encourages equal opportunities. During the period when the request is being determined, the authority cannot dispose of the asset to anyone other than the community transfer body.

1.14 The Scottish Government has published Asset Transfer Guidance for Relevant Authorities, 2017 and Asset Transfer Guidance for Community Transfer Bodies, 2017 to support those involved in both parts of the process.

1.15 Also relevant is The Local Government in Scotland Act 2003. Section 1 of this legislation places a duty on local authorities to make arrangements which secure best value. Section 11 allows local authorities to dispose of land for less than the best consideration. The Disposal of Land by Local Authorities (Scotland) Regulations 2010 set out the criteria to be met by councils proposing to dispose of land for a consideration less than the best that can reasonably be obtained. These criteria require appraisal and comparison of the costs, and benefits of the proposal. The local authority must also be satisfied that the disposal for that consideration is reasonable and that the disposal is likely to contribute to the promotion or improvement of economic development or regeneration, health, social wellbeing or environmental wellbeing.

## **CHAPTER 2 THE APPELLANT'S CASE**

### Reasons for the request and benefits

2.1 The purpose of the organisation is to provide recreational facilities and advance the social needs, health and well-being of men of all ages and backgrounds living in Carnoustie and Monifieth and surrounding areas by:

- creating, developing and maintaining a facility, namely a Men's Shed;
- offering opportunities for men in the Carnoustie and Monifieth area to meet and undertake creative, physical, purposeful and recreational activities of their choice;
- reducing isolation of men in the area thus contributing to their physical and mental wellbeing; and
- developing the capacity of men in the Carnoustie and Monifieth area to share their skills and knowledge with others in the community.

2.2 The proposal seeks to consolidate and develop what has been achieved in the last three years. The move into the Machine Room on 1 June 2017 enabled installation of equipment in a space that was attractive and suited to the purpose. Membership has since doubled from 13 to 26. There is now a need to expand to develop the work of the Shed and to ensure good health and safety standards. This is a social enterprise that has demonstrated its effectiveness in the locality as it has done in many different parts of the world. The submitted [Development Plan 2017-18](#) documents the history of the shed movement, its networks, health benefits, the geographical area to which it relates, its activities, membership, organisation, support, finance and funding.

2.3 The request was only ever meant to be for a lease. It was stated at part 3c of the application that a right to purchase the land was also sought but that intention would only have followed on from the lease period.

2.4 Activities focus mainly on woodwork, constructing items that people enjoy making, but which may also serve to enhance the life of the community. For example The 'Golf Buggy Planter' was made for Colourful Carnoustie; the mud kitchen for Grange Primary School, the planters for the Special Needs garden at Monifieth High School and the benches for the 'Eco garden' at Woodlands Primary School. A kitchen facility would provide an enhanced space to build on this aspect of the Shed provision following the example in Brechin, which set out to engage with adult males (particularly 60+ age group), to improve their confidence and skill in cooking at home, and to reduce social isolation and encourage participants to meet new people.

2.5 The proposal would enable the current lack of toilet facilities to be addressed. The whole issue of the best way to heat the premises is being thoroughly assessed, with the possibilities of deploying renewable energies as a priority. Storage has proved difficult, and while the Machine Room has given a very useful area of 107 square metres, space to store timber and other materials is severely limited. The lock-ups in this application would provide for storage. The garden is also included where there could be collaboration with Monifieth Eco Force to develop part of it for creative gardening activities. There is scope for features such as poly-tunnels and a greenhouse. This area can also offer space for smallscale outdoor events.

### Capacity and support

2.6 The shed membership has the capacity to deliver given the range of appropriate skills on offer from the chairman, vice chairman, secretary and treasurer.

2.7 [Statements of support](#) are submitted which can be viewed attached as document 1d. There is strong support from individuals, community groups and businesses:

- ongoing involvement with both High Schools and four of the five Primary Schools with reference to partnership working on the school garden;
- Age Scotland with acknowledgement of the "Shed Effect";
- a local company who has provided storage and use of a truck on numerous occasions to transport machinery and materials;
- work on Carnoustie High Street and for a local retailer;
- links with Colourful Carnoustie, Free Food for Carnoustie, and with the Community Council and the Development Trust;
- the Monifieth Community Resource Group;
- the NHS Community Innovation Fund;
- Carnoustie charity shop; and
- through requests from local people including bicycle repair, garden maintenance and painting.

2.8 The proposal presents a valuable opportunity for the council and an established community group to enter into a productive and creative partnership, where house building and community building can go on together, side by side. Housing need not be an alternative use but part of a scheme to include the men's shed.

## Sustainability

2.9 There is a focus on sustainability sourcing materials locally and at the best price. The value of social relationship networks needs to be ranked not just more highly, but from a quite different perspective – as an asset. As noted previously this process of asset transfer has to be viewed as a mutual one; it is not just a public body transferring one of its assets to a community group, but the latter gifting the public body its invaluable asset. This is a modest but, strong asset in transformative community development.

## Contribution to local and National Outcomes

2.10 There is a focus on local outcomes and working together in accordance with the Carnoustie, Monifieth and Sidlaw local place plan through:

- supporting small business;
- enhanced town centres;
- promotion of digital learning and communications;
- promoting adult learning;
- improving the environment; and
- working with local schools

2.11 The men's shed contributes to training, learning and sharing on safety, health, communication and other skills. It enables mutual reciprocity.

2.12 The proposal contributes to National Outcomes including 'valuing and enjoying our built and natural environment' and to a 'strong community, well-being and resilience'. The various jargon term used in this context, such as 'accruing social capital' or 'building capacity' are all about the reality of relationship patterns that affirm people, give them a sense of value, a place in life. The tendency to express the outcomes of human endeavour in monetary terms run the serious risk of devaluing initiatives that start with a 'quality of relatedness' purpose rather than financial cost objectives.

2.13 Evidence of 'National Outcomes' is given flesh and blood in the Age Scotland survey of 'The Shed Effect' which reveals how much Shed membership is at the cutting edge of giving many men meaning in life in their later years.

## Potential Risks

2.14 Possible noise causing disturbance for people in the vicinity is addressed as shed activity involving machines occurs indoors and has little impact on the external environment. In good weather the group try to do some work outdoors, such as some sanding, and painting but this can be managed and any disturbance limited.

2.15 There is unlikely to be any conflict with local tradesmen in terms of woodwork for example as there is no ambitions to compete with local joiners and most of them have more work than they are able to take on and are involved in much larger scale operations than the level of our projects. However these issues would be monitored so that matters arising could be addressed.

## Community Benefit – comparison with housing

2.16 The council awarded the Shed a 'community benefit' score of 46.2 out of 90. They gave themselves, for their housing development proposal, 75.8 out of 90. However, the community benefit scores are strongly skewed. In carrying out the social evaluation template the Men's shed arrived at a score of 70 out of 90, which suggests, even allowing for a degree of subjective bias on either side, that there is not the big discrepancy in community value which the council figures suggest. The proposal would make a real contribution to the community getting the most value from contributors and securing continuous improvement through learning and mentoring.

## Financial Appraisal – comparison with housing

2.17 On the 'financial assessment' the council scored themselves 42.2 out of 52, the Shed being given 14.8 out of 52. The proposed rent is £1,500 per annum. Financial information is provided showing the cost of running the shed and the budgeted expenditure based on 2017-18. In that time 50% of funding came from grant funding but the objective is to become increasingly reliant on self-funding. The members already contribute 25% and funding is likely to continue to draw on diverse sources including local funding events, contributions and items sold. A number of forward sources of grant funding have been identified based on current guidance for funding applications.

2.18 On the financial side, a much more pervasive bias prevails. Finance it seems always appears at the top of any list of criteria. In the national guidance there are 7 best value categories and these subsequently become 10 in the council assessment procedure. The inclusion of the first one, economic regeneration, is going to be biased against a small project unless it is judged proportionately. It appears that Angus Council decided to adopt a different and enlarged order of priorities.

2.19 Direct monetary comparison between any alternative housing development and the Men's Shed function requires consideration of the "social return on investment". Community projects can deliver several times their monetary cost in social value. A study of the social benefits of a shed in Westhill is referenced which estimated there was a return of £9.80 on every pound invested. On that estimate this current proposal could be considered to generate £100,000 of value in excess of the £85 000 value of the property. In addition this takes no account of the value of the services and products of the men's shed and the consequent value to the community.

2.20 There is disadvantage in being confronted by economic statements as the Men's Shed are unable to contest these without substantial research that is beyond the resources of a community group. However the £370,000 market value of Invertay is challenged. In March 2018 the value was in fact £250,000. This major discrepancy in the valuation was pointed out and the council responded that 'officers stand by the information provided in the original report as being the best and most accurate estimate of the financial implications of the different options.' However this discrepancy in the valuation figure makes it difficult to blindly accept that any of the rest of the council's calculations are accurate.

2.21 The 'Social Return on Investment' document offers a means of estimating social and community value on a more equitable basis. There is a strong tendency, which is unfortunately reinforced in the national guidance, to make financial value the starting point, the benchmark, as it were, over against which the challenge is issued to the community body to try to reach that standard.

2.22 The social value of the Shed can be worked out by taking, as an example, an annual gross income of £6,000 and multiplying it by a factor of 12. The total of £72,000 is getting close to the £90,000 stated value of the Machine Room. Focus is not placed on these particular figures, which are used to illustrate the process, but that the council does not recognise this important tool in their response to our review statement.

### Best Value

2.23 Departing from value solely as a financial benefit, the energies of the Shed have been deployed in all directions making connection and building relationships throughout the region and beyond. In so doing the group are making a real contribution to knitting together the social fabric of community. The Shed aspires to achieve best value in all dimensions of its activities, from seeking to elicit the maximum contribution of all the members with their varied personalities, to saving £40 on a piece of machinery by shopping around

2.24 Commensurate with the skills the members possess and the learning and mentoring that occurs in passing these on to others, the group seek to 'secure continuous improvement in performance while maintaining an appropriate balance between quality and cost.'

2.25 Best value is demonstrated in making a real contribution to the community, getting the most value from contributors and securing continuous improvement through learning and mentoring. The proposal represents a valuable opportunity for the council and an established community group to enter into a productive and creative partnership, where house building and community building can go on together, side by side.

### Other matters

2.26 A number of other matters are raised including about the council's process, the availability and access to information, lack of available assistance with the process, and the council's lack of familiarity with the premises and operation given a site visit was never undertaken. These along with the council's response are as detailed in [Appendix C to Report 352/19](#) in terms of the request for review of the council's decision as lodged on 30 April 2019. The review committee appears to have relied on legalistic assessment criteria rather than on the application of the criteria set out in the National Guidance.

### Conditions

2.27 It is requested that a number of aspects be incorporated in the term of any lease:

- freedom of use of garden area;
- installation of kitchen and toilet facilities in accordance with building regulations; □
- access to parking space;

- maintain current 100 Amp three phase supply of electricity to the annex building;
- decommission of the air conditioning units;
- Isolation of heating flow and return supplies to boiler; and
- leave Fire Alarm system as is and remove any links to Redcare (Monitoring) or slave units to main building

2.28 Whilst the original application also requested the right to purchase within the period of the lease this was subsequently clarified as not forming part of this current application.

## **CHAPTER 3 THE COUNCIL'S CASE**

3.1 In making the decision, the Committee had regard to the considerations noted within section 82 of the Community Empowerment (Scotland) Act 2015. There was an alternative proposal to consider alongside the request and this had a particular impact on the decision which was made by the Committee and the Review Committee. The alternative proposal was to use the entire site for housing. Summary information regarding the group's request and the alternative proposal are contained within [appendices to report 416/19 \(Document 7\)](#) including the comparative assessment templates.

### Alternative Proposal

3.2 The alternative proposal is described as conversion of the school buildings to provide 14 affordable rented housing units; demolition of the various outbuildings and modern extensions to enable 5 new build townhouses; and development of 16 houses for shared equity in the car park area on the east side. All are proposed to be done with a focus on retaining the character and history of the site. A capital investment of 6 million pounds is estimated including securing 1.78 million pounds of external Scottish Government Funding. The townhouses are considered important given the costs of conversion of the listed building and the need to secure project viability. The larger site in the council's ownership which includes the appeal site, Invertay House, other outbuildings and car parking amounting to some 0.59 hectares is clarified in the council's [additional submissions](#).

### Comparative Assessment

3.3 The request made by the group was assessed in line with the council's agreed assessment criteria and model. Furthermore, the council carried out the same assessment in relation to the alternative proposal. Both proposals were therefore assessed in line with the same criteria so that comparison could, as far as practical, be on a like for like basis. The results of these assessments were made available within the paperwork ahead of the meetings. It is important to stress that the council's assessment model is used as a guide for Councillors to make a decision. The assessment model scoring is not a definitive answer given the challenges of comparing different proposals.

3.4 The council note that the group wished to make it clear that their request was in respect of a lease of the property. Both the Committee and the Review Committee recognised that the request from the group was only for lease of part of the site.

### Community Benefit

3.5 The proposal along with the alternative was assessed in terms of community benefits using a [standardised evaluation template](#). The Men's shed proposal is assessed using this approach at [Appendix 1](#) to Report 101/19 and the housing proposal at [Appendix 2](#). These assessments show that from the potential scoring of 90 the Men's Shed proposal achieved 46.2 when assessed against the stated 10 criteria including economic development/regeneration, public health and/or social wellbeing, reduction of inequality, other benefits and community support, vision and leadership, governance and accountability, use of resources, sustainability and performance management. In comparison the alternative use for social housing achieved a score of 75.8.

3.6 The work of the Men's' Shed is endorsed by the council and its importance in social prescription and in promoting health and wellbeing is recognised. This is fully taken into consideration as part of the community benefits analysis in the assessment model. The council acknowledges (paragraph 2.1 of its committee report dated 4 April 2019) that the proposals would contribute to the outcomes outlined in its Local Outcomes Improvement Plan, Locality Plans and Council Plan, which focus on the economy, people and place. Community Asset Transfer is a core part of Community Empowerment. The benefits as outlined in the appellant's case were taken into account. However the benefits of the proposal to redevelop the site for housing purposes were assessed as greater than the benefits of the proposal by the Carnoustie and Monifieth Men's Shed from a community perspective as well as a financial perspective.

3.7 In particular, the proposal to re-develop the site for housing presents an opportunity to deliver high quality and affordable housing. This has the support of the Local Housing Strategy. The development of the site in question for council housing was included in the Council's Strategic Housing Investment Plan (SHIP) prior to the application being considered. The alternative proposal for housing presented a long term benefit for the community including reuse of a listed building. The alternative housing proposal would allow a period of around two years before the Men's Shed group would require to vacate the site and Council Officers have been encouraged to engage with them throughout this time in order to identify a future site.

### Financial Appraisal

3.8 A separate financial appraisal was also carried out based on general funding brought in, impact on council running costs/revenue budget, impact on capital costs/capital budget, the extent of council funding required, impact on council revenue income and impact on council capital income. On this basis the Men's Shed proposal achieved 14.8 and the housing 42.2 from a potential scoring of 52. The proposed annual rent of £1,500 was weighed against the potential capital receipt for the general fund estimated at £370,000 which would also remove the ongoing running costs (net of rental income) of £2000 per annum.

3.9 The council considers the delivery of affordable housing by securing Scottish Government Affordable Housing Grant to be unviable financially if this asset transfer were to be approved. The proposal would also result in a potential loss in the likely capital receipt in the order of £75 000. The housing proposal addresses comprehensive redevelopment of the entire site.

## Risks

3.10 There is a risk associated with a community group being sustainable over the length of time of the proposed lease. The council recognises that the group is strong and has a good reputation so didn't consider this to be a significant risk but brings the matter to the attention of the Ministers. The council recognised the risk to the Men's Shed continuing to contribute to community objectives in the event that this transfer was unsuccessful and the group was unable to find alternative accommodation. Progressing the housing proposal would provide a period of around 2 years for alternative premises to be found. The council accept some uncertainty on the implications on future use and value of the site were the transfer to be approved but reference is made to the increased complexity and potential difficulties with compatibility with the proposed light industrial unit. These uncertainties and risks would impact on future options and viability for the wider site.

3.11 The group being tenants on the site would impact on the viability and value for the remainder of the site and its ability to be developed. The Committee recognised that the projects could work in tandem but that having tenants on part of the site would ultimately have negative financial implications for the council and would bring about complexities in respect of any sale or re-use of the site and buildings comprising it. Approval of the request would ultimately have resulted in the housing option becoming financially unviable (because the main building on site, a former school building with a Category B listing, would cost significantly more to redevelop than a vacant site) and would have reduced the capital receipt.

## Best Value

3.12 The council's approach acknowledges that the scoring is only a guide to the final decision. The council is under a statutory duty to obtain Best Value and given the projected benefits as detailed in the request when compared to the alternative proposal (Housing), the council would have been in breach of this duty had they decided to grant the request of the group.

3.13 The housing proposal presents the best overall value as indicated by the scoring method. Appendix 1 to report 101/19 shows a graph that brings together the financial and community benefits score to place the proposal in the section of the chart which indicates the proposal may present best value but that careful judgement is required. In comparison the alternative housing proposal scoring (Appendix 2) would place the scores in the green area where the proposal is likely to represent best value.

3.14 The alternative proposal allows for the entire site to be used which was deemed to be more financially viable. Furthermore, the housing proposal presented a long term opportunity and presented the greater value overall. The alternative proposal for housing presented a long term benefit for the community including reuse of a listed building and was deemed to present fewer risks in terms of financial stability. The capacity of the council to deliver the project is indicated by the delivery of a similar project at Academy Court in Forfar.

3.15 The council used the best information available when looking at the value of the site and had to base its decision on this information. Even if the premises were valued at a

lower value than the Council does not view that this position would materially impact upon the decision which was made by the Committee. The overall long term financial value of the alternative proposal would still outweigh the financial value of the group's proposal.

3.16 It is the Council's view that it has followed the CAT legislation by comparing the Men's Shed application with an alternative proposal. That alternative proposal would see the entire site redeveloped for much needed affordable housing (in line with the council's Strategic Housing Investment Plan) and bring the whole site back into effective public use.

3.17 The key issue here is not that the Men's Shed application is not without merit and in different circumstances it may have been agreed. In this case the Policy & Resources Committee had to weigh up the benefits of the Men's Shed application against alternative uses and take into account the likely impact of having a tenant on only part of a vacant site. The method of assessment of these two alternatives was the same. It is difficult to compare two very different options but that is what the Policy & Resources Committee had to do. It could not ignore the impact of approving the Application on the other options for the site.

3.18 Overall, the council consider that the housing proposal presents the best value in terms of Community and financial benefit and considers that there were reasonable grounds to refuse the request made by the group. The Council continues to engage with the Men's Shed group to try to find suitable alternative accommodation.

#### Conditions

3.19 If the application was to be approved this should be subject to the conclusion of any necessary legal agreements prior to transfer and to any appropriate terms and conditions. Specifically reference is made to clarification that there is no option for future purchase of the site.

## CHAPTER 4 REPORTER'S CONCLUSIONS AND RECOMMENDATIONS

### Introduction

4.1 Chapter 13 of the Scottish Government document Asset Transfer: Guidance for Relevant Authorities, 2017 provides advice on the assessment of asset transfer requests. There are four elements to this, as follows:

- (i) consideration of benefits against the criteria set out in Section 82 of the Act;
- (ii) alignment with one or more of the Scottish Government's national outcomes; (iii) demonstration of best value against the Scottish Government's seven best value themes; and
- (iv) consideration against a check list of matters listed at paragraph 13.10 of the guidance in relation to assessment of outcomes.

4.2 The legislation allows for the community transfer body to buy or lease the land. Whilst the initial application referenced a first option to buy I note this request has been more recently clarified to apply only in relation to a 15 year lease. The application to lease is made under Section 79(2) (b) (i) of the Act.

4.3 The request, in accordance with those provisions, states the amount of rent the community transfer body are prepared to pay and the duration of the lease (15 years), and any other terms and conditions they consider should be included in the lease.

4.4 I have carefully considered the requirement under subsection 5 of the Act that "the authority must agree to the request unless there are reasonable grounds for refusing it."

### Reasons for the request and benefits

4.5 From the photographic and other evidence provided by the appellants I understand the important role that the establishment of a base in the outbuildings at Invertay House has played in enabling the development and success of this community group.

4.6 Control of the building with expansion to include additional floor space would undoubtedly provide for future stability and growth of this important community resource. From the submission I am aware of the local support for this group and the opportunities it provides for participation, inclusion, learning and for the provision of goods and services. Those goods and services also provide community benefit and support for other organisations.

4.7 I am clear that there is an established community need for the facility as demonstrated by the work carried out to date, the levels of participation and the support expressed from local schools and other community groups. Work on gardens and on facilities within public spaces also demonstrates an environmental benefit to the community. The request, when placed in the context of the current use of the land and buildings, would continue to provide for and enhance the valuable community use of these buildings.

4.8 I note there are some concerns from a neighbouring property regarding potential noise and disturbance and issues that have arisen from the current use. In that respect I

understand that the proximity of the land and buildings, subject to this appeal, may raise potential issues for the protection of residential amenity. However the submissions indicate a willingness on the part of the Men's Shed to address these issues. I recognise that security of tenure and more space may assist with this. In any event approval of this transfer would not negate the usual regulatory controls, any requirement for planning permission and building warrant or the need to comply with any associated conditions.

4.9 I can fully understand why the community body considers the premises to be ideally suited for its purposes and to enable provision of kitchen, toilet facilities, additional storage and more productive use of the garden area. There is clearly a need for a suitable premises to be maintained if the group is to continue to thrive.

4.10 My conclusion is that there is a clear reason for the request. From the above I also consider there are public health, social wellbeing and environmental benefits. There would also be some other, albeit less direct, economic and regeneration benefits given the opportunities provided to learn new skills, promote confidence and inclusion and provide other local benefits. These considerations go some way to enabling support for the proposal as outlined in Section 82 of the Act.

4.11 However I must also consider any benefits that might arise, including in the context of the functions and purposes of the authority, in the event that an alternative proposal was advanced. In this case an alternative proposal for housing is advanced by the council. I consider this matter below before coming to a conclusion on compliance with Section 82 of the Act. The alternative proposal, as described by the council, includes conversion of the Category B Listed former school buildings to provide 14 affordable rented housing units; demolition of the various outbuildings and modern extensions to enable 5 new build townhouses; and development of 16 houses for shared equity in the car park area on the east side.

4.12 I have seen no detailed viability assessment or costings for the housing proposal. Nor is it demonstrated that the site can accommodate the indicative 35 units. Such a scheme would clearly be subject to consideration through the planning system. Nevertheless the council states the proposal is supported by its approved Housing Strategy and the Act at paragraph 82 (f) references "any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates." In turn the Scottish Government's Guidance on Asset Transfer advises consideration of the benefits that **might** arise from the alternative use of the asset (my emphasis). In response to my procedure notice the council confirmed work in relation to the current housing development is on hold while the council awaits the outcome of these appeal proceedings. Project feasibility, whilst not evidenced in any detail to this appeal, is stated to have been carried out and the council states it is committed to delivering the project if the appeal is dismissed.

4.13 Funds are stated to be identified in the Housing Revenue Account Financial Plan and the project is contained within the Strategic Housing Investment Plan with potential Scottish Government grant funding drawdown allocated to it. Delivery is currently anticipated for 2022. My conclusion is that this information is sufficient at this stage to confirm that housing development of the entire site is a realistic alternative proposal and I note that the Men's Shed have not sought to make a case to the contrary.

## Contribution to National Outcomes

4.14 I agree, for the reasons stated above, that the appeal proposal would contribute to National Outcomes including 'valuing and enjoying our built and natural environment' and to a 'strong community, well-being and resilience'. I particularly note the collaborative projects which contribute to environmental enhancement and learning and the evidence of the Age Scotland survey of 'The Shed Effect' which reveals how much Shed membership is at the cutting edge of giving many men meaning in life in their later years.

4.15 The benefits rehearsed above in relation to economic development, regeneration, public health, social wellbeing and environmental wellbeing suggest that there would also be potential to contribute to other National Outcomes. In particular, there is potential alignment with outcomes relating to creating better employment opportunities, supporting children, young people and families, living longer, healthier lives, valuing and enjoying the natural environment and helping older people to maintain their independence. Consequently I am satisfied that the proposal aligns with more than one of the National Outcomes.

## Consideration of Alternatives and Demonstration of Best Value

4.16 The Act as supported by the Scottish Government Guidance advises that the relevant authority must compare the benefits of the proposal in the request to the benefits of any alternative proposals and consider how the potential benefits relate to the functions and purposes of the authority, and any other matters they consider relevant.

4.17 Paragraph 10.11 of the guidance expands on this to explain that in comparing alternative proposals the price offered for the transfer should also be considered alongside the non-financial benefits. In its simplest form the outcomes should be considered with any profit or savings that might be made, or what impact any financial loss might have and compared with the benefits offered by the community project.

4.18 All relevant authorities have a duty to secure Best Value in their operations, including when letting property. I appreciate that best value does not always mean the highest possible price. All authorities have the ability to dispose of property at less than market value where there are wider public benefits to be gained. This is set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010, and in the Scottish Public Finance Manual for other relevant authorities.

4.19 Paragraph 13.7 of the Scottish Government Guidance states that the evidence provided to support the asset transfer request should be considered in relation to the seven best value themes of vision and leadership; effective partnerships; effective governance and accountability; use of resources; performance management; sustainability; and equality.

4.20 In determining this appeal a balance must be applied to the financial and nonfinancial impacts, both positive and negative, of the different options. The council has not sought to argue or present evidence to indicate that the rent offered would be insufficient in terms of the rental value of the property as it stands. Neither is there dispute about the vision and leadership of the Men's shed, its partnerships with others, governance, performance

management, accountability or consideration of equality issues. This reflects my assessment of these matters.

4.21 On the matter of sustainability the council references some risk around continuation of the group throughout the period of the lease. However it accepts, as I do, that the submissions evidence the strength of membership, local support and the availability of funding to an extent that such risk would be minimised. I am aware that the future sustainability of the group may be threatened in the event that this appeal is dismissed and alternative premises are not identified. I understand that progressing the housing proposal would provide a period of around 2 years for alternative premises to be found for the Men's Shed. Alternatively lease of the premises for 15 years could increase the risk and reduce the value of the council's wider asset which includes Invertay House. There could also be perceived risks around co-location with an activity of a light industrial nature. I accept that these uncertainties may impact on the value and long term use of the remainder of the site which would in any event be reduced in size and development capacity were this asset to transfer to a lease over a period of 15 years.

4.22 The main issue in this case revolves not around the benefits of the proposal or its specific merits, all of which are acknowledged, but rather with the relative merits of the alternative housing proposal for the site.

#### Comparison with the benefits of the alternative proposal

4.23 I appreciate the difficulties in comparing two very different proposals. One is for part use by the community of some of the out-buildings and associated land. The other a substantially different scale and nature of development. The housing proposal would involve a more comprehensive redevelopment scheme including the conversion of the adjacent listed Invertay House and the associated land and outbuildings.

4.24 The housing proposal for Invertay House and grounds, including the appeal site, would clearly involve a much larger scale of investment than the Men's Shed. By implication this scale of investment would have a consequently more significant impact on economic development and regeneration. In this respect I note a capital investment of 6 million pounds is estimated including securing 1.78 million of external Scottish Government Funding.

4.25 The council's comparison is only made in relation to the wider site rather than solely the land and buildings subject of this appeal. Nevertheless I accept, in principle, the premise that conversion of a listed building often requires supporting development and that there is potential for the appeal site to enhance the viability of the wider housing redevelopment.

4.26 The council states that 5 townhouses are anticipated to be accommodated through demolition and redevelopment of the land associated with the various outbuildings and modern extensions. In that respect I accept the townhouses may be important given the costs of conversion of the listed building and the need to secure project viability. In that context inclusion of the appeal site may facilitate the re-use of a listed building in an important town centre location, assist in the delivery of affordable housing and address housing needs as supported by the council's Local Housing Strategy.

4.27 The council has at least partly relied on its own evaluation template (Annex A, Appendix 1 Report 105/18) to score the two proposals based on an assessment of community and financial benefits. The resultant scores are plotted on a graph to enable comparison of the relative likelihood that the proposal would achieve best value. I note this is described as an assessment tool.

4.28 Community benefit is assessed against 10 assessment criteria up to a maximum score of 90. However the council's community benefit criteria also include an assessment in terms of economic development and regeneration. The Men's shed remark on this as resulting in a consequent over-emphasis on economic/financial criteria given that this is also a consideration within the council's financial evaluation. The 6 financial criteria attract values up to a total maximum of 52 with associated weightings attaching greatest weight to council revenue considerations.

4.29 I recognise there is scope for variation depending on the assessors and the values attached to the schemes. This is illustrated by the differences in the scoring concluded by the council compared to that concluded by the appellants. For community benefit the appellant scored the Men's Shed more favourably than the council. Similarly the council's financial appraisal of the proposal is considered by the appellant to be overly pessimistic in terms of recognising the real value of the proposal. I return to that matter below. I recognise the appellant's concerns that there is some potential for over-emphasis on economic considerations given the criteria applied through the council's template approach.

4.30 However there is nothing to suggest the council relied exclusively on the scoring in the template or that other relevant considerations were set aside. When viewed as an assessment tool I consider the council's evaluation template provides a helpful means of comparison. I have also considered all the other submitted evidence and the terms of the advice on assessment as set out in Chapter 13 of the Guidance to arrive at my conclusion on the relative benefits of the proposals and the demonstration of best value.

#### Community Benefit- comparison with housing

4.31 The council awarded the Shed a 'community benefit' score of 46.2 out of 90. They gave themselves, for their housing development proposal, 75.8 out of 90. In carrying out the social evaluation template the Men's shed arrived at a score of 70 out of 90. I have rehearsed above the community benefits of the proposal and accept the value to be placed on the contribution the Men's Shed can make to the local community.

4.32 Compared with that housing led regeneration and the associated economic benefits are well documented. Additionally, the council also point to benefits in terms of providing high quality and sustainable new housing and enhancing the historic environment as well as in addressing inequality through the provision of affordable housing. The community to be served would be similar and demand and deliverability within 5 years would be demonstrable for both options. Housing and the appeal proposal could feasibly be delivered in other locations but the accessible location relative to the town centre offers clear benefits for both options.

4.33 Drawing that information together in the context of the assessment framework set out in Chapter 13 of the Guidance my conclusion is that the Men's Shed would achieve a moderate to strong community benefit. In comparison the comprehensive redevelopment of the whole site for housing, including conversion of the listed building has potential to contribute more strongly in terms of overall benefits to the community. Subject to further evidence of feasibility and viability it may have potential to contribute very strongly in this respect. I have not attempted to assign a consequent scoring but I consider it is sufficient to conclude that housing would achieve a consequent and markedly higher score than the appeal proposal. The Guidance adopts a ranking from very strong to poor in terms of assessing the strength of any proposal.

#### Financial Appraisal – comparison with housing

4.34 I accept there is some uncertainty around the development value and costs surrounding the council's alternative housing proposal. Certainly the council recognises the higher development costs likely to achieve successful conversion of the listed building. Indeed it recognises this is likely to require provision of an element of higher value housing in the form of townhouses to enable a viable scheme. I note above the significant capital investment that such a scheme could attract and the potential draw-down of Scottish Government Funding.

4.35 From the submissions there is some divergence in the relative values to be applied, the valuation figures and the consequent scoring of the respective proposals. In particular there is disagreement about the assumed capital receipt which the council reference as £370,000. However, the Men's Shed state that "in March 2018 the value was in fact £250,000". There is nothing to conclusively demonstrate either value. To apply the benefit of doubt I have assumed the lower value of £250,000.

4.36 Clearly the machine room and the other elements subject to this application have correspondingly lower values and there is reference to a £85,000 to £90,000 value. This is balanced against the proposed rent of £1,500 per annum and I assume the retention of the value of the property given the council would remain the landlord. The proposed annual rent of £1,500 was weighed against the potential capital receipt for the general fund which would also remove the ongoing running costs (net of rental income) of £2,000 per annum. In addition the financial information provided shows that 50% of funding came from grant funding but that the facility has potential to become increasingly reliant on self-funding. The members already contribute 25% and funding is likely to continue to draw on diverse sources including local funding events, contributions and items sold. A number of forward sources of grant funding have been identified based on current guidance for funding applications.

4.37 I recognise it is important to consider the less directly measurable "social returns on investment". I accept that community projects can deliver several times their monetary cost in social value and I note the submissions on the assessment of social benefits of a shed in Westhill where there was an estimated return of £9.80 on every pound invested. On that estimate this current proposal could be considered to generate £100,000 of value in excess of the £85,000- £90,000 value of the appeal property. In addition I recognise that the council's template assessment takes no account of the value of the services and products of the Men's Shed and the consequent value to the community. I recognise that

the council did not apply any more nuanced or sophisticated assessment to calculate the social return on the investment by applying a multiplier to the assumed revenue from the proposal. However, balanced against this I accept there would be a consequent loss in the potential value of the larger site and the scale of investment it might attract in the event that this appeal was to succeed.

4.38 I appreciate the concerns of the Men's Shed that financial value becomes the dominant consideration and that challenging that priority becomes difficult to demonstrate based on the capacity of the group and the information available. Nevertheless I consider the graphic representation of how community benefit may be assessed alongside financial benefit, as included in Appendix 1 to report 1010/19, is helpful. Inevitably plotting the relative scorings on this graph means that the lower the financial scoring the greater the onus to demonstrate a higher degree of community benefit.

4.39 Drawing that information together in the context of the assessment framework set out in Chapter 13 of the Guidance my conclusion is that the Men's Shed would make a modest contribution to financial objectives. In comparison the comprehensive redevelopment of the whole site for housing, including conversion of the listed building has potential to contribute more strongly in these respects. Again subject to further evidence of feasibility and viability housing may have potential to contribute very strongly in this respect. I have not attempted to assign a consequent scoring but I consider it is sufficient to conclude that housing would achieve a consequent and markedly higher score than the appeal proposal.

### Best Value

4.40 Even if I were to accept that the council's appraisal over-estimates the comparable financial and community benefits of housing I do not consider the scale of the difference would be sufficient to bridge the considerable gap between the two proposals. The council assessment clearly places housing in the green area of the council's assessment graph, where the proposal is likely to represent best value, whilst the Men's Shed is in the white area where the proposal may provide best value. I find nothing in the submissions that would change that conclusion.

4.41 I accept that assessment would change if the Men's Shed could co-exist with the housing proposals. However I appreciate the council's concerns regarding that option. There would be associated risks not only to the viability of redevelopment, particularly given the costs inevitably involved in the conversion of a listed building and the reduced capacity of the site, but also in terms of achieving an optimal layout for the entire site to address access, amenity and the other matters. So whilst such an option might be feasible I am concerned about the associated risks, the implications on viability and prejudice to achieving the best solution for the entire site. My conclusion does not rule out such an option. However based on the information available and the evidence presented I consider redevelopment of the entire site for housing represents the best value option at this time.

4.42 Undoubtedly there may be other approaches to compare and assess best value but I am limited to the evidence presented in this case. Whilst there are clear benefits from the proposal I consider these are outweighed by the potential benefits of redevelopment of the entire site for housing and securing future use of the listed Invertay House.

## Other matters

4.43 I have not been provided with any detailed information on the availability or suitability of other premises that may meet the group's requirements although the appellant's submissions reference pursuing another site in council ownership in Monifieth. I understand this was subsequently placed for sale on the open market. The council's submissions and the conclusions of its review committee indicate a commitment to assisting the group to access alternative premises and to enable them to continue to rent the machine room until such times, estimated at around 2 years, as alternative proposals are more advanced.

4.44 The appellant's raise a number of issues about the process of the council, its lack of first-hand knowledge of the site, the transparency of its evaluation process, the lack of community development representation in the composition of the assessment panel and the criteria on which the review panel reached its decisions which runs contrary to national guidance. I can appreciate the difficulties for a community group in presenting the information and interrogating the alternative proposal. I reference above the absence of detailed evidence on financial appraisal and viability from the council albeit on balance I have found the information provided sufficient to enable my conclusions and recommendations. Procedural matters, in so far as they relate to the conduct of the council's process, fall outwith my remit in the determination of this appeal.

## Use of conditions

4.45 The council has raised no objection to the specific inclusions to the terms of the lease as referenced in paragraph 2.27 above and these appear to me to be reasonable inclusions. The council references only one condition to clarify that any approval would only relate to the lease of the property. The council's submissions also reference the need to conclude any necessary legal agreements prior to any transfer of the asset. In the event that Ministers decide to uphold the appeal I note that Chapter 14 of the Scottish Government's Asset Transfer Guidance for Relevant Authorities provides advice on the application of any conditions.

## Overall Conclusion

4.46 Drawing together all of the above in assessing the proposal against the criteria set out in Section 82 of the Act :

- there are clear reasons for the request;
- there would be a contribution to economic development, regeneration, public health, social and environmental wellbeing;
- there would be a contribution to tackling inequality and socio-economic disadvantage;
- there would be wider community benefit including support for and from other community services and groups; and
- there would be contribution to local and national outcomes.

4.47 However an alternative housing proposal is advanced by the council and the asset transfer must be considered against the benefits of the alternative proposal in respect of the

land to which the request relates. In that respect I consider the appeal site has potential to optimise the wider value and community benefit of the council's Invertay House land holding with a consequently greater contribution to economic development and regeneration. If achieved affordable and high quality housing provision would contribute to public health, social and environmental well-being. In addition, whilst the council's submissions lack detailed financial appraisal information I consider there are demonstrable benefits in focussing on comprehensive redevelopment of the site to secure redevelopment of the listed building, enhance project viability and optimise the capacity and value of the council's landholding in this location.

4.48 My conclusion is that overall the council's alternative proposal represents the stronger option when assessed against the relevant criteria. Consequently and taking into account all of my conclusions above I consider there are reasonable grounds for refusing the request.

### **Recommendation**

4.49 I recommend that the appeal be dismissed and that the community asset transfer request be refused.

4.50 If Scottish Ministers are minded to uphold the appeal and approve the request, contrary to my recommendation, it would be for Ministers to consider the terms of the any appropriate conditions to be applied or legal agreement as referenced in paragraph 4.44 above.

*Allison Coard*

Reporter