

**ASSET TRANSFER REQUEST
UNDER THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015**

DECISION NOTICE - REFUSED

To:

Sustaining Dunbar
27 High Street
Dunbar
EH42 1EN

Date of Notice: 3 May 2019

1. This Decision Notice relates to the Asset Transfer Request made by Sustaining Dunbar on 15 October 2018 and validated on 22 November 2018, in relation to 46-48 High Street, Dunbar, East Lothian. The Request was for the development of a Community Co-Working Centre ("Proposal").

Outcome: East Lothian Council has decided to refuse the Request.

2. East Lothian Council has considered the Request in terms of Section 82 of the Community Empowerment (Scotland) Act 2015 ("the Act") and has also had regard to the guidance issued by the Scottish Ministers, as required by section 96 of the Act. The reasons for the decision to refuse the Request are as follows.

Grounds for Refusal

3. On consideration of the Asset Transfer Request and supporting documentation, the Council consider that there is insufficient evidence that the Request **will succeed in promoting or improving**: (i) economic development; (ii) regeneration (iii) public health; (iv) social wellbeing; (iv) environmental wellbeing or any other benefits. East Lothian Council also consider that relevant benefits would be more likely to arise if the Council were to adopt an alternative proposal in relation to the asset, namely upgrading it in anticipation of future returns. Furthermore, in accordance with S82(j) of the Act, the Council took into consideration such other matters that it considered relevant which include funding, governance, sustainability, deliverability of the Proposal and the level of community and business support for the Proposal.

4. The Council has reached its decision on the basis that there are reasonable grounds to refuse the Request. On consideration of the Asset Transfer Request and supporting documentation provided by Sustaining Dunbar, the Council reached the conclusion **that in terms of section 82(3)(i) of the Act and in line with guidance published by the Scottish Ministers, the Council's statutory obligation to secure Best Value¹ would not be met by the Proposal.**
5. The following paragraphs set out the background to this decision and the conclusions reached.
6. Although the Council's understanding is that there is no legal provision for a community transfer body to change its offer price once an Asset Transfer Request has been submitted, the Council have engaged with Sustaining Dunbar regarding their amended offer price and understand from conversations at meetings that this is the only mechanism by which Sustaining Dunbar can achieve the purchase and conversion of the building. (For the avoidance of doubt, the Council do not consider that the original offer price of £175k in the Asset Transfer Application is supported by the documentation subsequently submitted by Sustaining Dunbar.)
7. Sustaining Dunbar's amended offer price is £332.5k providing this can be funded by a Scottish Land Fund grant but the project also relies on an assumed capital grant of £328k from the Council following on thereafter, to carry out refurbishment and conversion works.
8. According to a valuation obtained by the Council from DM Hall Chartered Surveyors, the building's value, if it were in good condition and for its current use (ground floor offices and two three-bedroom flats) would be £410k. As a co-working centre, according to DM Hall, it would be worth £240k.²
9. However, the building is not currently in good condition and would require reinstatement works (£190k³) to bring it back to appropriate condition for its current use, or alternatively repairs and conversion works (£328k⁴) to bring it into use for the purposes of the Proposal.
10. As stated above, Sustaining Dunbar's amended offer price is £332.5k but relies on an assumed capital grant of £328k from the Council following on thereafter, to carry out refurbishment and conversion works. This would result in a net receipt of £4.5k for a building that currently has a net assumed value of £220k (calculated by

¹ Under Part 1 of the Local Government in Scotland Act 2003

² The District Valuer declined to accept instruction from the Council for a valuation, on the basis that it was not an instruction for a joint valuation report to be provided to both the Council and Sustaining Dunbar. Officers had previously offered Sustaining Dunbar the opportunity to acquire a joint valuation report, but Sustaining Dunbar had declined.

³ East Lothian Council estimated cost

⁴ Sustaining Dunbar estimate

deducting assumed repair costs of £190k from valuation of £410k once in good condition).

11. The value of the asset resulting from the Proposal, at £240k, would be less than the capital grant of £328k envisaged by Sustaining Dunbar. This would represent a substantial risk to the Council in that, if the co-working centre did not succeed, the building would be worth less than the suggested Council outlay in grant. The Council would additionally be unlikely to recoup any value from a subsequent sale to a third party because the funder of the purchase price (envisaged as the Scottish Land Fund) would be likely to seek first charge on the asset in order to protect its own payment.

Economic Benefits

12. The Council has taken into consideration the Economic Benefit Statement submitted by Sustaining Dunbar but has concluded that the benefits set out in the document would in large part also follow from the alternative proposal that the Council is minded to adopt.
13. The Proposal focuses on economic benefit. The Council considers that there are significant challenges foreseeable to ensure appropriate marketing and spaces filled to optimum level. While there is evidence of community support for the proposal, there is insufficient evidence that the levels of support can be turned into the paid bookings needed for the Proposal to be sustainable. The Council also notes limited support from the local business community.
14. The Net Economic Benefit Statement posits benefits from:
- Construction: £190k for the regional economy.
 - Operations: Gross Value Added to the economy: £597k - £826k from co-worker jobs.
 - Wider Economic Benefits:
 - i) Perception benefits of having a disused building brought back into use in Dunbar High Street;
 - ii) Neighbourhood benefits of £150k per annum spend in the local economy (this assumes £20 per day spend by all people working at the proposed co-working centre);
 - iii) Reduced "leakage" of jobs and spend from local area.
15. The Council considers that some of the predictions set out in the Net Economic Benefit Statement are over-ambitious:

- the Council considers it is not realistic to expect the proposed facility to create co-worker jobs to the extent of Gross Value Added sums of £597k - £826k, albeit the proposed facility would focus co-worker jobs in one place;
- the Council considers it unrealistic to expect that co-workers using the space would each spend £20 per day in the local area.

16. The Council further considers that other economic benefits envisaged for the Proposal (from construction works and local spend) would also be applicable in large part for other uses of this building.

Social Wellbeing

17. While acknowledging evidence of general support from members of the community via Sustaining Dunbar's consultation and engagement, the Council considers that there is insufficient evidence of ongoing firm commitment from potential stakeholders/users of the facility. It also notes that whole-community access to the building is not envisaged.

Environmental Wellbeing

18. The Council acknowledges the intention to encourage active travel to the proposed facility, but also considers it likely that a number of users would seek to use their cars. The Council also acknowledges the desirability of bringing this empty building back into use on Dunbar's High Street.

Funding, Governance and Sustainability

19. The Council does not consider that the necessary sources of funding for securing the asset and delivering the proposals have been appropriately identified, and concludes that the Proposal is not deliverable as currently set out.

20. The applicant proposes to apply for Scottish Land Fund (SLF) funding but only to cover 95% of purchase cost of the asset. No evidence has been provided to demonstrate how the remainder of the purchase cost is to be funded. Capital works specified in the original Asset Transfer Request indicated 2 possible further funding sources, which had not been secured. Subsequently the estimated cost of upgrading work has trebled from £102k to £328k and the applicant has proposed grant from the Council for the full cost of upgrading. In meetings, the applicant has acknowledged the challenge of securing Council funding. There is no evidence of progress with other potential funders.

21. The applicant has supplied revenue income and expenditure profit/loss statement for 5 years, but no cash flow estimates. Revenue estimates include payment of loan principal and interest from the 2 original funding sources. Revenue estimates

do not include any changes in costs for staff, insurance, or other running costs, nor a sinking fund for future major repairs/replacements. Management of an asset needs to involve full life-cycle costing.

22. While there is a lack of evidence that Sustaining Dunbar has particular expertise or prior experience in managing this type of venture, the Council acknowledges that the organisation does have experience of running other types of project successfully.

23. It is not clear in the application how Sustaining Dunbar would report back to the community on their running of the asset.

Right to review

24. You have a right to **apply to the Council to review this decision.**

Any **application for review** must be made in writing to

Committee Services
John Muir House
Haddington
East Lothian
EH41 3HA

e-mail: cmttepetitions@eastlothian.gov.uk

by **31 May 2019**, which is 20 working days from the date of this notice.

Guidance on making an application for review is available at

<https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-community-9781786527509/pages/18/>

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3 May 2019

