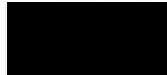




North Berwick Community Development Company



Company no. SC599775

ASSET TRANSFER REQUEST UNDER THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015: REQUEST FOR A REVIEW

To: East Lothian Council

Date of Request: 17 May 2019

1. Request for a Review

North Berwick Community Development Company (NBCDC) is applying for a review by the authority, as set out in section 86 of the Act and as set out in the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 (excluding Part 4 of the Regulations, which applies to reviews by the Scottish Ministers).

The review refers to the Council Depot at Lime Grove UPRN: 1357 and 1359 as shown on the plan submitted with the Community Asset Transfer request.

The reasons for the request are that NBCDC challenges the two reasons given as Statutory Grounds for Refusal

'1.1 On consideration of the business plan and supporting documentation, ELC consider that there is insufficient evidence that the Request will result in or is likely to promote or improve i) economic development; ii) regeneration; iii) public health; iv) social wellbeing; v) environmental wellbeing or any other benefits.

1.2 Furthermore in accordance with S82 (3) (j) of the Act, ELC took into consideration such other matters that ELC considered relevant which include the funding, governance, sustainability, deliverability of the Proposal and the community support for the Proposal.'

All these areas were considered in depth in the Community Asset Transfer (CAT) request and NBCDC believes a very creditable case was made for the provision of the benefits listed in 1.1. (Please refer to CAT request.)

East Lothian Council (ELC) has not said on what basis it has made that assertion nor shared the assessment matrix that it has used to come to this decision. It is therefore difficult for NBCDC to understand why ELC has come to that view. In the Scottish Government's Asset Transfer Guidance for Community Transfer Bodies it states in section 15.6 "*the requirement for the relevant authority to give reasons for decision is a key part of the legislation. An asset transfer request must be agreed unless there are reasonable grounds for refusal. It is*

the decision notice that will set out these grounds. The reasons should be as transparent as possible."

NBCDC believes that the matters listed in 1.2 such as funding, governance, sustainability, deliverability and community support are adequately addressed (see comments below).

This statement covers the matters raised in the Decision Notice

- General Comments, addressing the matter of insufficient information
- Funding
- Governance
- Deliverability
- Sustainability
- Community support

General Comments

Before responding to the specific considerations on funding, governance, sustainability and deliverability of the proposal NBCDC would like to make the following general points.

The Refusal repeatedly refers to lack of information. This is surprising for the following reasons

- NBCDC supplied a detailed Business Plan which was carried out by an independent consultant
- NBCDC answered all the questions in the Community Asset Transfer request in considerable detail
- NBCDC responded to 11 pages of questions from ELC
- The Scottish Government's Asset Transfer Guidance for Community Transfer Bodies states in 10.2 *"the relevant authority should continue dialogue with the community transfer body throughout the process. They may ask for clarification or more detail in any issues they feel are necessary for their decision. This will help to avoid situations where a request is refused on the basis of a lack of information which the community transfer body would have provided if they had been asked."*
- During the process NBCDC repeatedly asked ELC if there was any other information that was required. It is therefore disappointing to find at this stage that ELC is asserting that some information that is regarded as critical is seen to be missing. If ELC had asked for it, NBCDC could have supplied it.

2. Funding

NBCDC accepts that the situation is not clear, but it is difficult to put in a funding application before there is a decision on the land. NBCDC has had several meetings with the North Berwick Trust (NBT). The Trust has yet to finalise its procedures for large capital grants. However, it has changed its mission to

'Working in partnership with others. North Berwick Trust uses its resources to help meet identified community needs and improve the quality of life of residents in North Berwick.'

NBT's mission states that it is committed to working in partnership with the community. It follows that NBCDC's relationship with NBT continues with ongoing dialogue.

NBCDC would also approach the Scottish Land Fund, which gives grants of up to a £1m and has already had discussions with them.

NBCDC would challenge the statement that it did not provide an appropriate level of information on the funding levels that are required. NBCDC employed a business consultant, Community Enterprise Ltd, and provided a detailed spreadsheet commensurate with the request from ELC. If the Request is accepted NBCDC will employ a fundraiser to develop the fundraising strategy.

3. Governance

With reference to 3.2 of your letter (and also 4.3) the NBCDC accepts that the Business Plan was not clear in this matter, having been written before NBCDC was established as a legal entity. However, it was clearly stated in our Stage 2 CAT application for ownership that NBCDC was the legal entity making the application and the ownership of the property and development of the site would rest with that body.

It is asserted that NBCDC's objectives did not align with those of the community. This is challenged. Although the Business Plan addresses the objectives of NBT as the primary potential funder, the objectives for the CAT have developed through extensive consultation through North Berwick Coastal Area Partnership, which is inclusive of the surrounding areas. The CAT request also addressed ELC's strategic objectives of i) economic development; ii) regeneration; iii) public health; iv) social wellbeing; v) environmental wellbeing (please see the CAT application).

4. Deliverability

During the preparation of our Business Plan, the Lime Grove Asset Transfer Group (a sub group of the North Berwick Coastal Area Partnership) had tasked the Consultant to speak to our delivery partners, and the results were as indicated in the Business Plan. If ELC had requested letters of support these could have been provided. As this is considered critical by ELC, NBCDC is very surprised it was not requested. It is difficult to get letters in the time given to request review, especially as this is over Easter and supporters may need information as to why the CAT request was refused.

Point 4.5 refers to a £90k loss annually. This figure came from a feasibility study for a stand-alone Arts Centre and not the Community Hub, which provided income generators. Also, the £90k figure was calculated before any grant funding was obtained.

Following the production of the Business Plan, further contact was made with EL Works and a Learning Academy did not appear feasible. However, the Community Hub can still deliver work placements and apprenticeships alongside the established pathways. The Youth Project also supplies employability support and will be able to do so in an enhanced way.

NBCDC would challenge the assertion that it has not provided an appropriate level of information on the ability to deliver the proposal.

5. Sustainability

NBCDC believe it has provided a great deal of information on sustainability and at this stage, it is unrealistic to expect anything else than high level figures for the operational stage. NBCDC provided a Business Plan. An Operational Plan will be provided at a later stage if the Request is accepted.

NBCDC challenges the assertion that the displacement and duplication issues were not properly considered. There is growing demand in the town. For example, two recently established cafes, The Drift and Costa, are both successful (one peripherally located, one central) and this has not affected existing local cafes.

NBCDC has supplied a risk register.

The town is growing, with significant house building at the top of the town where Lime Grove is situated and there are few facilities at that end of town. It is also within walking distance of affordable housing and some of the less affluent areas of the town. The Community Hub may be a means of integrating that part of the town.

There is evidence that people will walk to The Drift Cafe and that there is capacity in the community to sustain another food outlet. ELC may be underestimating the town's capacity to support new business.

6. Community Support

NBCDC challenges the view that NBCDC has not provided an appropriate level of information to properly evidence community support, and would stress the following points

- The company has over 1,200 members.
- The community engagement was carried out by North Berwick Coastal Area Partnership, ELC's own community planning arrangement
- Lime Grove Asset Transfer Group and NBCDC received advice from the Community Ownership Support Service (COSS) set up by the Scottish Government on the importance of community engagement by a variety of methods and this was carried out through meetings, consultations, questionnaires etc.

NBCDC challenges the assertion that the absence of representations from community groups indicates a lack of support. NBCDC is disappointed that the ELC did not ask for evidence of support from community groups, as this could have been provided. As stated in 4, it is difficult to get letters in the time given to request a review. NBCDC has engaged widely with community groups who are in favour of the Community Hub and who would have been happy to write letters of support.

Community engagement has been carried out through the North Berwick Coastal Area Partnership, which included communities outside North Berwick. At these community engagement events there was a focus on the potential of the Lime Grove site, and indeed it was because of the interest shown in these events that the initial Lime Grove Asset Transfer Group was established. The work was taken forward and supported by the North Berwick Coastal Area Partnership and the Partnership funded the Business Plan.

NBCDC was not aware of the plans for the expansion of North Berwick High School (NBHS) at the time of the CAT request and was at no time informed of the plans by ELC. Plans to expand the High School's Drama facilities were discovered by chance at a Parent School Partnership meeting. NBCDC's understanding was that it was not able to provide further information to ELC after the CAT had been validated, except in answer to ELC's questions. In the 11 pages of questions submitted by ELC no mention was made of the High School expansion.

When NBCDC heard about it unofficially, it held 2 meetings in March at NBHS with the Deputy Head Teacher and School Business Manager and, with their information, believed the two facilities to be mutually exclusive and compatible, serving different purposes. The new Drama facility will be managed by FES whose hourly rate has currently inhibited community groups from regularly hiring school halls. The NBHS Drama Studio would not be available during the day. Young people also need a space away from the school environment to continue and expand their drama experience.

NBCDC challenges the assertion that it has not engaged with neighbouring properties. Several Rhodes Park residents have attended the meetings. It was difficult to consult formally as there is not a Rhodes Park Resident Association. NBCDC had a meeting with The Lime Grove Residents Association and attached the minutes as part of the submission.

It is important to stress that for a development of this size and complexity the number of objections is very small.

Conclusion

The NBCDC wishes to request a review of the decision to refuse the request in relation to Lime Grove. NBCDC believes it has answered the questions raised in the Refusal and that this shows that the proposal will provide i) economic development; ii) regeneration; iii) public health; iv) social wellbeing; and v) environmental wellbeing.



Director
NBCDC