



Report to the Scottish Ministers

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

Report by Steve Field, a reporter appointed by the Scottish Ministers

- Case reference: CAT-110-1
- Site Address: Former Market Place School, Market Place, Inverurie, AB51 3XN
- Appeal by The Garioch Partnership against the review decision by Aberdeenshire Council to refuse the community asset transfer request
- Application for asset transfer, dated 4 July 2018, refused by notice dated 31 August 2018, confirmed, subject to modifications, 22 January 2018
- The development proposed: establishment of a third sector hub
- Date of site visit: 24 July 2019

Date of this report and recommendation: 15 August 2019



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Proposed community asset transfer of the Former Market Place School. Market Place, Inverurie, AB51 3XN to establish a third sector hub

• Case reference	CAT-110-1
• Case type	Community asset transfer review appeal
• Reporter	Steve Field
• Appellant	The Garioch Partnership
• Local authority	Aberdeenshire Council
• Other parties	None
• Date of application	4 July 2018
• Date case received by DPEA	12 March 2019
• Method of consideration and date	Written submissions and accompanied site inspection on 24 July 2019
• Date of report	15 August 2019
• Reporter's recommendation	Dismiss the appeal and refuse the community asset transfer request

The proposal

The proposal is that the council transfers the former Market Place School in Inverurie to The Garioch Partnership to enable the partnership to establish a third sector hub. This would enable community groups, local people and small social enterprises to work together in a common space to their mutual advantage and to the greater benefit of the community. The partnership has offered to pay £5,000 for the asset.

The application site

The former school is located to the east of the Market Place. The property comprises the original Victorian school with twentieth century additions.

The building was closed in 2017. It is currently boarded up and vacant. Extensive vandalism has taken place inside the building. Lead flashing has also been removed from the roof in places. The building appears to be structurally sound.

The Garioch Partnership

The partnership is a voluntary sector organisation which aims to support local, third sector groups with advice, information, planning and support in order to help build stronger, more successful and more sustainable communities. The partnership is funded by the council through an annual grant of £35,616. It employs two people.

Consideration by the council

The request was received by the council on 4 July 2018 and refused on 28 August 2018. The reasons for refusal were that there is insufficient evidence to show that the benefits are achievable; that the benefits would be less than those accruing from the council's use of the site for car parking; transfer would not represent best value; and the financial loss to the council would not be sustainable.

Following a request for review by the partnership, the council confirmed its decision to refuse the request on 22 January 2019 with one significant difference: the value of the asset was recognised as being incorrect and was, therefore, reduced from £555,000 to £290,000.

Appeal to Scottish Ministers

The partnership submitted its appeal on 18 February 2018. The council challenged the legality of the appeal and also the reporter's right to allow the appellant additional time to comment on the council's submission. The Division of Planning and Environmental Appeals replied to explain why it considered both matters were in order. The council indicated that it did not accept this explanation and reserved its right to rely on the arguments it had put forward in the event of any legal challenge. The appellant did not respond to the offer of an extension so the second point of contention ceased to be an issue.

The appellant's case

The partnership considers that the proposed third sector hub would help to support and develop voluntary organisations by making it easier to share capacity, knowledge and resources, provide training and develop support services. The Garioch Partnership would itself relocate to the hub.

The appeal is accompanied by thirteen letters of support, a list of 24 supportive comments from potential users and an anonymised petition comprising 191 supportive comments. The partnership considers that some groups may have been unable to commit support to the hub because of their existing circumstances and because of timescale.

The business plan for the hub highlights the proposal to create a business trading arm to improve financial sustainability with surplus income reinvested to support development of the hub.

Specific proposals include the creation of a resilience and disaster management centre. This is considered to be required as the accommodation used by the third sector to support community recovery after Storm Frank in 2016 is no longer available.

It is proposed to establish a tourist information point but no details are provided as to what this would entail.

It is also proposed to set up a nursery, run as a social enterprise, to provide a service for people not able to afford high fees, such as those returning to education or not in work.

A business start-up facility would be provided to take advantage of the town centre location without having to pay town centre rents. This is supported by correspondence from the

local business association and business improvement district. The hub itself would create further job opportunities.

The partnership has identified a number of concerns about hire of council property, including in the town hall, located at the north end of Market Place. Therefore, it is proposed to provide new affordable and available event space for community groups. It is not considered that the community campus, under construction at the Academy to the west of Market Place, will address these concerns.

The appeal submission highlights the sustainable location of the proposed hub with good access for pedestrians, cyclists, bus passengers and train users, along with the potential to visit more than one organisation in a single location.

Finance to develop the hub would be raised once the transfer has taken place. There is no intention to alter the physical structure of the building. Development would be prioritised in line with the needs of tenants. The £5,000 offer for the asset is considered to be reasonable given the deterioration that has occurred and the potential benefits to the community that would accrue from the establishment of the hub. It is considered that these benefits would, in time, reduce the need for expenditure by the council. The partnership feels that the council did not follow good practice by not commissioning a joint valuation of the asset and is concerned that the original, higher, valuation influenced unduly the views of elected members. It also believes that other asset transfer requests have been treated more favourably by the council.

Financial sustainability is to be ensured through lets, charges, donations and fund-raising, both from grant-giving organisations and business.

In terms of governance, the partnership claims a wide range of skills and a good track record of achievement.

The council proposes to use the former school site for car parking to support its proposal to extend the town hall onto the adjacent car park. The appeal submission states that this decision was not informed by advice to members on the asset transfer request. The partnership also considers that the council's proposal is not supported by a transport assessment, neighbours have not been notified and restrictions on public parking during the working day means the car park would be of limited community benefit.

The council's case

The council supports the principle of establishing a third sector hub but considers there is a lack of evidence of commitment, likely usage or additional activity and, in particular, that there has been no market needs assessment.

The council also supports the desire to reduce reliance on core funding but does not find the business plan to be credible.

The resilience and disaster management centre is regarded as superfluous, given the council's review of emergency planning following the flooding in 2016. The council does not comment on the proposed tourist information point. It is concerned that there is no detailed business case for the nursery and also how it would affect existing providers and fit with council policy. There is concern that the business start-up facility may represent duplication

of existing provision and that this has not been properly costed. The council also claims its hire rates for accommodation are less than those proposed at the hub, there is no evidence of lack of demand and, in any case, provision will be enhanced following completion of the community campus.

In relation to the value of the asset, the council makes a number of points, key amongst these are:

- it is not clear how the partnership would fund the acquisition;
- there is no obligation on the council to transfer the asset at a discounted value;
- there is a lack of evidence to justify that the projected benefits would justify the proposed discount;
- each transfer request is dealt with on its merits; and
- the reduction in value to £292,000 would still mean there is a significant loss to the council which it is not possible to justify as best value.

The council considers that the business plan as it relates to the financial implications of refurbishing and maintaining the building lacks substance so that even a small, unexpected cost has the potential to jeopardise viability of the project.

Existing governance of the partnership is considered to be good, although there is a lack of detail about longer term arrangements.

The council explains that it has approved an office space strategy that entails the refurbishment of the town hall and use of the former school site to provide parking displaced by the proposed extension. The council considers there are no other sites in its ownership that would be suitable and, without access to the former school site, the strategy would be undermined. It is also claimed that use of the site for parking would have wider benefits for the town centre. A transport assessment will be carried out as part of the planning application process. Work with the town hall user group is in hand to ensure the new facility addresses criticisms of the existing accommodation

Conclusions

In line with Scottish Government guidance, I have assessed the request against the criteria set out in section 82 of the Act, National Outcomes, best value themes and a check list of matters listed in the guidance in relation to assessment of outcomes.

In relation to the section 82 criteria in the Act, I find that establishing a third sector hub has the potential to:

- develop and strengthen the local voluntary sector;
- provide The Garioch Trust and prospective partners with greater financial stability;
- make a positive contribution to economic development, regeneration, public health, social wellbeing and environmental wellbeing;
- reduce inequalities;
- retain a building of some local architectural and historic interest;
- provide services in a location readily accessible by sustainable means of transport;
- and

- attract people into the wider town centre, which would help support shops and services.

However, I also find that:

- there is insufficient evidence that the proposed benefits can be delivered;
- financial planning is not sufficiently robust to ensure the future of the building or the community transfer body; and
- on balance, there is a stronger case for the council's proposal to use the site for car parking to support its office space strategy than to support the community asset transfer.

Consequently, an assessment of the strengths and weaknesses of the proposals leads me to conclude that the transfer cannot be supported in relation to section 82 criteria.

The Scottish Government's guidance in relation to alignment with National Outcomes refers to alignment with one or more outcome. Whilst I find that the proposed third sector hub would align closely with two outcomes and has the potential to contribute to a number of other outcomes, the weight I can attach to this alignment is compromised by my findings that the partnership has not provided sufficient evidence that the proposed benefits will be realised, nor that it has in place a suitably robust plan for the refurbishment and maintenance of the building.

In relation to best value, I find that the proposed asset transfer request demonstrates best value in terms of governance and accountability and equality, does not demonstrate best value through use of resources and demonstrates some contribution to best value through vision and leadership, effective partnerships, performance management and sustainability. As with my finding in relation to the potential contribution to national outcomes, I find that, whilst there is good evidence that the project would make positive contributions in relation to some themes, my overall conclusion is that the proposed transfer would not deliver best value. This is due principally to a lack of evidence that sufficient partners are committed to the project, that essential financial plans are in place and that outcomes will be monitored and reported to show satisfactory progress.

In terms of the Scottish Government's recommended assessment of outcomes, I conclude that the proposals would result in a moderate to weak contribution to the outcomes listed in the guidance. This concern is underscored by my concerns about the financial planning behind the proposals and the impact on the council's property strategy.

Overall, I conclude that, whilst there is potential for the proposed community asset transfer of Market Place School to deliver significant benefits in relation to the criteria set out in section 82 of the Community Empowerment (Scotland) Act 2015, the Scottish Government's National Outcomes and the Scottish Government's best value themes, based on the evidence provided by the appellant, the business case to support the transfer is moderate to weak in strength. As such, I do not find reasonable grounds to recommend that the council's review decision on the asset transfer request be overturned.

Recommendation

I recommend that the appeal be dismissed and the community asset transfer request be refused. Should Ministers be minded to uphold the appeal and agree to the request, I recommend that conditions be attached to the transfer to protect the discount on market value, in line with Chapter 14 of the Scottish Government's Asset Transfer Guidance for Relevant Authorities.

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DPEA case reference: CAT-110-1

The Scottish Ministers
Edinburgh

Ministers

In accordance with my minute of appointment, dated 9 April 2019, I conducted an accompanied site inspection in connection with an appeal against the refusal by Aberdeenshire Council of a community asset transfer request by The Garioch Partnership in relation to the former Market Place School, Inverurie, AB51 3XN. The Garioch Partnership proposes to use the former school to create a third sector hub.

My report takes account of the appellant's asset transfer request dated 4 July 2018, the council's decision to refuse the request on 31 August 2018, the appellant's request for a review, the council's decision to confirm its original decision subject to modifications dated 22 January 2019, the appellant's appeal submission dated 18 February 2019 and the council's response to the appeal dated 8 March 2019. I have also taken account of key documents associated with these principal stages of the request, refusal and review.

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

The proposal

1.1 The proposal is that the council transfers the former Market Place School in Inverurie to The Garioch Partnership to enable the partnership to establish a third (voluntary) sector hub.

1.2 The appellant proposes that the third sector hub would enable community groups, local people and small, local social enterprises to work together in a common space. The partnership considers that community space in Inverurie is often unaffordable or inaccessible to many potential users. The building is considered to be fit for purpose and no structural changes are proposed. Upgrades would be proposed as and when necessary to accommodate user groups. The partnership has indicated it is prepared to pay £5,000 for the asset.

The application site

1.3 The application site is located to the east of the Market Place. The site is bounded in the north by a grass field, formerly the school playing field, in the east by the Aberdeen to Inverness railway line, in the south by Urybank House, and in the west by the properties at 44 to 70 Market Place and 1 to 11 Wallace Road. The property comprises a largely single storey, former school, built in 1895, with twentieth century single and two storey additions. The original building is of granite construction with a slate roof. A lane linking the site to the Market Place provides access. A small car park to the south of the former school is accessed from Wallace Road, which also links the site to the Market Place. Site boundaries are defined by granite rubble walls. Neither the former playing field nor the Wallace Road car park is included in the community asset transfer request.

1.4 The building was closed in 2017 and is currently vacant. Doors and windows have been boarded up. Notwithstanding this, there is evidence of extensive vandalism to the interior of the premises. Lead has also been stripped from the roof. The building appears to be structurally sound.

The Garioch Partnership

1.5 The Garioch Partnership is a community transfer body for the purposes of the Community Empowerment (Scotland) Act 2015. It is a voluntary sector organisation governed by a board of trustees elected from the Garioch area, which is centred on Inverurie and also includes Westhill. The partnership estimates the 2016 population of the area to be about 50,000 people. The partnership is registered as a Scottish Charitable Incorporated Organisation. Its purpose, as stated in the Business Plan for a Third Sector Hub in Inverurie, 2018, is to be 'a community-led, independent community development organisation that uses its members' network to build stronger, more successful, more sustainable communities in the Garioch Area'. The partnership comprises 96 member organisations.

1.6 According to the business plan, the partnership supports non-profit and charitable organisations with 'signposting to relevant advice and support; governance; funding support and advice; business planning, visioning and support; sustainability; advice, information and networking; and knowledge and support around Scottish Charity Regulator requirements for

charities'. The partnership considers that the main groups which benefit from their activities are children, young people, adults and specific interest groups.

1.7 The Garioch Partnership is fully funded by Aberdeenshire Council with the council providing a grant of £35,616 in 2017/18. The budget is monitored through a service level agreement with the council. Some additional, project specific funding has been secured through the community planning budget. The partnership employs two people.

1.8 If the transfer was to go ahead, an existing project sub-group set up to consider the feasibility of the proposed transfer would be continued as a user group to reflect the usage of the proposed hub, establish upgrade priorities and acceptance of new users.

Statutory context

1.9 Sections 77 to 97 of The Community Empowerment (Scotland) Act 2015 (the Act) introduced a right for a community transfer body to make a request to councils and a range of other public bodies to request the transfer of ownership, lease or other rights of land or property. 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 relevant authority, 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 A community transfer body is 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. An asset transfer request must be accompanied by a copy of the community transfer body's constitution or other governance documents.

1.11 The relevant authority must decide whether to agree or refuse the request. The specified criteria which must be taken into account in determining the application 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.

1.12 Decisions must be made in a way that encourages equal opportunities. The authority must agree to the request unless there are reasonable grounds for refusing it. During the period when the request is being determined, the authority cannot dispose of the asset to anyone other than the community transfer body.

1.13 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.

1.14 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 other disbenefits, 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.

Consideration by the council

1.15 A valid asset transfer request was received by the council on 4 July 2018. The request was considered by the council's Garioch Asset Transfer Group, a multi-disciplinary group chaired by the council's area manager. The group sought feedback from the partnership and met again to discuss the request on 25 July 2018 when it was agreed to recommend refusal of the request for 26 reasons. The request was then considered by the Aberdeenshire Asset Transfer Steering Group on 31 July 2018. This group endorsed the recommendation of the Garioch Asset Transfer Group that the request be refused.

1.16 Following consideration of a report by the Director of Education and Children's Services, the request was refused by the Garioch Area Committee on 28 August 2018. In summary, the four grounds for refusal were that:

- insufficient evidence has been provided to demonstrate that the benefits of the request are achievable;
- the benefits of the request are judged to be less than the benefits of an alternative proposal (parking provision to support the council's office space strategy);
- transfer would put the council in breach of its duty to obtain Best Value; and
- the financial loss that would result from the transfer is not sustainable.

1.17 The partnership subsequently asked the council to review its decision, as provided for by the Act. Following review, the council confirmed its decision to refuse the request on 22 January 2019. The main difference in the decision notice from the initial refusal is that the council acknowledges that its initial valuation of the school at £555,000 was incorrect and this was corrected to £290,000. The council states that, as 'the valuation of the asset remains significant...the change in valuation does not materially impact the reasons for refusal'.

Appeal to Scottish Ministers

1.18 The partnership submitted an appeal to the Scottish Ministers on 18 February 2019. This was received by the Division of Planning and Environmental Appeals on 12 March 2019. The council questioned whether the appeal was legally competent and, subsequently, whether the reporter was entitled to allow the appellant additional time to comment on the council's submissions. The basis of the first submission was that the appeal had not been made in time, nor in accordance with the regulations.

1.19 The Division of Planning and Environmental Appeals responded on the first point in an email to the council dated 13 June 2019. This distinguished between the requirements of regulation 3(2) of The Asset Transfer Request (Appeals) (Scotland) Regulations 2016, which prescribes by when and how a notice of appeal must be served on Ministers, and the requirements of regulation 4(1), which sets out when and how the appeal is to be intimated to the local authority. The email advised that regulation 3(2) is a mandatory requirement which, if not complied with, means that the appeal process is not triggered and any appeal outwith the relevant timescale will be invalid. In the case of the appeal under consideration, the community transfer body served the appeal notice on 18 February which is within 20 working days of the date of the decision notice (22 January 2019), in accordance with regulation 3(2), so the appeal is competent.

1.20 In contrast, regulation 4(1) is a directory requirement. This sets out what is expected of the community transfer body in order to facilitate the appeal process but a minor departure from the requirements of the regulation does not invalidate the appeal. Hence, a short delay in the intimation of the appeal to the council is not fatal to the competency of the appeal. The council advised in an email of 1 July 2019 that it does not accept this explanation and reserves its position to rely on its previous argument in any subsequent legal challenge.

1.21 The appellant did not respond to the offer of an extension of time by the extended deadline of 17 May 2019, so the second point ceased to be an issue.

Structure of report

1.22 Chapter 2 of the report summarises the case for The Garioch Partnership in support of the asset transfer request. Chapter 3 summarises the case for Aberdeenshire Council in refusing the request, both initially and on review. Chapter 4 sets out my conclusions on the appeal and provides my recommendation as to how it should be determined.

CHAPTER 2: THE APPELLANT'S CASE

2.1 The case for the appellant is set out in the community asset transfer request and supporting documentation, including a business plan and letters of support, dated 16 June 2018 and the appeal submission, dated 18 February 2019, and supporting documentation. The case is summarised in paragraphs 2.2 to 2.18 below.

2.2 A principal goal of the The Garioch Partnership is the creation of a third sector hub to support and develop voluntary organisations. Specific objectives of the hub would be to share resources, knowledge and capacity, including an information and contact point for voluntary groups, provide training facilities, increase opportunities for volunteering, develop front office facilities for smaller voluntary groups and back office support for community groups generally. The hub would also provide a base for The Garioch Partnership itself where it would be able to reduce its own overheads and be connected to groups it supports.

2.3 The partnership's appeal submission suggests that some groups may be reluctant to jeopardise their existing accommodation arrangements by speaking out in favour of the hub proposal, also that the timescale of the asset transfer process makes it difficult for groups to commit to the hub. The business plan includes a list of eight organisations which have stated an interest in being a partner in the project or using any new facility. The appeal submission includes eleven letters of support from voluntary organisations and four letters of support from two individuals. One group, Human Factors Safety Associates, has indicated it would set up a training room in the hub and 'look at weekly bookings of at least one day with a view to expanding this'. The submission also includes a list of 24 supportive comments from potential users, seven of which are attributed. Of these seven supporters, Inverurie Boxing Club, the Trussell Trust Food Bank, The Gaitherin, Garioch Women for Change, camera club and pottery group express an interest in using space in the proposed hub. Additionally, the submission is accompanied by an anonymised petition comprising 191 supportive comments. The Garioch Trust membership voted unanimously to support the proposals.

2.4 The business plan highlights the desire to create a business trading arm to improve financial sustainability. The appellant does not assume that the council's revenue grant will continue to be provided and the asset transfer is intended to help move away from reliance on core funding from the local authority. It would hope to continue the existing arrangement whereby the council provides human resources support, as required, until this service can be absorbed as a management overhead as the organisation grows. Running costs would be shared across all users with income reinvested to support development of the hub.

2.5 Additionally, it is intended to establish the following:

- a resilience and disaster management centre;
- a tourist information point;
- an affordable nursery;
- business start-up facilities; and
- affordable and available space for community groups, including development of a small arts and performance space.

2.6 The aftermath of Storm Frank in January 2016 is identified as justification for the disaster recovery centre. At this time, the old legion hall was used as a hub for donations and volunteers for a period extending beyond the public sector-led response. However, this

property is no longer available and the proposed hub is considered to be an ideal replacement given it is not in an area at risk of flooding and is adjacent to the railway, so would also be well located to support disaster relief following any major rail incidents. The Garioch Partnership flood committee holds £20,000 funding to provide services of this nature. Letters from Dr Macleod and Aberdeenshire North Foodbank provide specific support for this aspect of the proposals.

2.7 No additional information is provided on the proposed tourist information point.

2.8 Establishment of the affordable nursery would be pursued following transfer of the building as ownership is seen as making it easier to attract funding. The partnership believes there is a shortage of affordable childcare in the town and the service would be aimed at people returning to education or training, not in work and not able to afford high fees. The nursery would be run as a social enterprise.

2.9 The small business start-up facility would be provided in partnership with the Inverurie Business Association and We Are INverurie, the local business improvement district. Both have provided letters of support. The start-up facility would aim to take advantage of the town centre location without having the financial overhead of a town centre shop front. It is also expected that the proposed hub would create employment opportunities for development workers and reception/caretaking staff.

2.10 A number of issues are identified in connection with hire of council property. These relate to the letting process itself, the requirement for insurance and certification, such as first aid and food hygiene, access through caretakers and keyholders, affordability and availability. The town hall is considered to have limited disabled access, poor facilities and lack of flexible space. The community campus, currently under construction at Inverurie Academy, is not considered suitable for all groups, with some being concerned about proximity to a school and the negative connotations that is considered to have for many adults. The proposal for a small arts and performance space is to allow a greater diversity of artistic events to take place than is considered to be possible at the present time. Any current lack of demand for accommodation by voluntary organisations is considered to be a sign that the community is aware suitable accommodation is not available.

2.11 The partnership claims that the greater anonymity achieved by providing services under one roof, rather than in separate buildings, would remove any stigma around access, particularly to those groups providing services targeted at more vulnerable people such as those providing support on issues relating to mental health, domestic abuse and poverty. The hub model is seen as being particularly valuable in reducing social isolation.

2.12 The appeal submission stresses the potential sustainable transport benefits of the hub. In particular, the easy, level walk to the railway station and town centre bus stops are highlighted, as is the proximity of the site to sheltered housing and the ability of development workers to meet a variety of groups without making single-purpose car journeys.

2.13 The partnership expects to raise the financial capital required to develop the site once the transfer takes place. Development will then be phased on a priority basis, depending on the organisational needs of tenants. There is no intention to alter the physical structure of the former school. The partnership has offered £5,000 for the building. It considers this is a reasonable sum given the deterioration that has taken place to the property in the time

it has been vacant, the potential community benefit, the commitment to building social capital and community cohesion, providing community space, supporting some of the most vulnerable people in the area, supporting the development of new businesses and potential benefit to the town centre. All this, it is also suggested, would enable the council to reduce future expenditure. It is claimed that the council has treated other community asset transfer requests in Aberdeenshire more favourably and failed to follow good practice in not commissioning a joint valuation of the former school with the appellants.

2.14 In requesting a review of the council's decision to refuse the asset transfer request, the appellant suggested that the council's valuation of the property, at £555,000, was incorrect. This was subsequently revised to £290,000 by the time elected members considered the review. However, the partnership remains concerned that the initial figure advised to members influenced the decision to refuse the request to an inappropriately negative degree.

2.15 It is intended that long-term financial sustainability will be ensured through lets for accommodation, charges for support services, donations and fund-raising. Preliminary discussions have taken place with potential funders such as the Scottish Land Fund, Robertson Trust and Tudor Trust. Approaches would also be made to local private sector companies with a commitment to corporate social responsibility. The partnership highlights previous success in applying for Awards for All funding for an IT upgrade. It also explains that it has 'robust reserve policies' in place which would buy time sufficient to source alternative funding if core funding is reduced by the council. The priority use for revenue generated would be building management costs with any surplus reinvested in the hub in line with its aims and objectives to benefit Garioch communities.

2.16 In terms of governance, The Garioch Partnership claims a wide range of skills and a track record of delivering successful community projects such as the Axis Centre in Newmachar and the Garioch Sports Trust in Inverurie.

2.17 The council has indicated its intention to use the former school site for car parking in support of its office strategy which would see development take place on the town hall car park at the north end of the Market Place. The appellant considers that the decision to approve the office strategy was not informed by advice on the asset transfer request and, generally, that the council has not acted in the spirit of the legislation in dealing with its request. Specifically, the appellant claims that the council has not consulted neighbours or the wider community on its car park proposal and has not carried out a traffic impact assessment. It is also suggested that the proposed car park would have limited benefit to the community as it would only be available for public parking in the evening and at the weekend. However, the appellant does consider that the displacement of town hall users during the refurbishment could provide a source of income to the hub in the short term.

2.18 The partnership advises that it has received support for creation of a third sector hub from the area manager and chair of the area committee with the express intent of finding an alternative building or site. However, the partnership explains that it has ruled out new build because of the time it would take to begin delivering services to the community. Market Place School is considered to offer the best combination of location, space and availability of options that could be used from day one. At 12 February 2019, one property was identified to the partnership as a possible alternative location for the proposed third sector hub but this did not allow time for review prior to submission of the appeal.

CHAPTER 3: THE COUNCIL'S CASE

3.1 The council's case is set out in the Director of Education and Children's Services' report to the Garioch Area Committee on 28 August 2018, the decision notice on the asset transfer request dated 31 August 2018, the decision notice on the request for a review of that decision dated 22 January 2019 and the submission in response to the appeal, dated 8 March 2019, and supporting documents. The case is summarised in paragraphs 3.2 to 3.20 below.

3.2 The council is supportive of the ambition set out in the asset transfer request to establish a third sector hub. but considers there to be a lack of evidence of commitment and detailed usage by other voluntary organisations, other than Human Factors Safety Associates for one room and 'perhaps' the foodbank. It notes the claim that such a facility is much needed but believes this claim has not been fully substantiated and, in particular, that there has been no market needs assessment. Whilst noting the benefits of co-location, the council considers that there is no evidence of additional activities being generated by the proposals. The council is of the view that the petition submitted in support of the request provides little support for the business case as it lacks robust analysis.

3.3 The council is also supportive of the desire to reduce reliance on the core funding it provides to the partnership. However, it does not consider that the financial surplus set out in the business plan is factually accurate, raising questions as to whether this is achievable.

3.4 The proposal to establish a resilience and disaster management centre is regarded as being ill-defined and superfluous given the council's view that its hub (the Academy) and spoke (primary schools) model works well in Inverurie and policy has been updated to take account of lessons from Storm Frank. It is also noted that it is unclear how this use would generate income, that dedicated space of this nature would compromise flexibility and that, even if relief space of the nature proposed is required, alternative buildings are available.

3.5 The council does not offer any comments on the proposed tourist information point.

3.6 In relation to the proposed nursery, it is noted that there is no financial projection to support the business case. The council is also concerned that, were the nursery to be subsidised, this would have implications for existing providers and also that there is no explanation as to how the nursery provision would align with the council's strategy to implement the Scottish Government's objective of providing 1,140 hours of early learning and childcare by 2020.

3.7 In relation to the proposed business start-up facility, the council notes that there is no evidence of demand, that business start-up support is already catered for at Crichtiebank and Thainstone Business Centres, that there is some potential for duplication of effort with the Business Gateway service and no consideration has been given to the funding of works to upgrade some part of the premises to a standard commensurate with business use.

3.8 The council claims that, based on comparable floor space, it charges less in each case than the hourly rates proposed by The Garioch Partnership in the proposed third sector hub. It also notes a lack of evidence to show that demand outstrips supply for lettable meeting and event space, notes that the hall at the town hall is let only 26% of the time and that high-quality, accessible and affordable space will be available upon completion of the community campus. The authority refutes the suggestion that it is moving towards full cost

recovery of leisure and recreation services which the appellant indicates is of concern to some voluntary groups.

3.9 In relation to the partnership's claims that many customers of the proposed hub would find use of services based at the proposed community campus off-putting because of the proximity to a school, the council queries whether the same issues would not arise in relation to the former Market Place School. The authority also comments that the appellants have not provided any evidence to substantiate their claim. The council interprets the partnership's comments about a reduction in stigma from accessing services in a multi-use building as meaning that there is more likely to be stigma attached to using certain services in a multi-use building than in stand-alone locations and considers the same difficulty would apply to the proposed hub.

3.10 The council does not offer any comment on the sustainable travel advantages of the proposal claimed by the appellant.

3.11 With regard to the capital value of the property the council makes a number of points, as follows:

- there is no evidence to indicate how the partnership would meet the capital cost of purchasing the building;
- there is a lack of evidence to demonstrate that the projected benefits would justify the proposed discount from market value or satisfy statutory best value requirements;
- there is no obligation in the Act that requires the council to provide a discount on the asset value;
- the appellant's submission in relation to the council's alternative proposal for the site is not relevant to the quantification of any discount in relation to this request;
- the obligation to maintain buildings on the site was an historical feudal burden extinguished by the Abolition of Feudal Tenure etc (Scotland) Act 2000;
- the appellant has not shown any statutory grounds to support the assertion that the council has displayed a lack of care and dereliction of duty in respect of the building since it became vacant;
- although the appellants quote an architect and surveyor as providing assurances that the building is sound and worthy of retention, no evidence to this effect has been produced;
- each asset transfer request is judged on its merits so evidence relating to other requests cannot be used in support of the Market Place school request;
- if the transfer were to proceed, it would result in the loss of a potential capital receipt, with a commensurate impact on the capital plan;
- reduction in the capital value of the asset following review of the council's original decision did not impact materially on the statutory duty to obtain best value or ability to sustain a financial loss;
- if the property was to be transferred at a significantly discounted price, the council would propose to impose conditions of sale to the effect that the partnership would be required to repay the difference in price if the forecast benefits are not delivered and to return any increase in value resulting from any different use of the asset (it is also noted that there are risks to the council in enforcing such conditions); and
- disposal of the asset at a discount, in the absence of evidence to justify the value of that discount, would be a breach of its duty to obtain best consideration in terms of

section 74 of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

3.12 With regard to the financial implications of refurbishing and maintaining the building following any transfer, the council makes the following points:

- the business plan is well structured but council officers are concerned that it lacks financial substance;
- it is very unusual for a three-year financial forecast to contain so little detail and income figures within the financial appraisal seem highly optimistic;
- the financial forecast contains mathematical inconsistencies;
- there is no evidence to show that the partnership has undertaken an independent condition survey of the building;
- there is no recognition that a reduction in occupancy does not equate to a comparable reduction in utility costs unless opening hours are greatly reduced, which would reduce the community benefit of the proposal, meaning break-even costs would be higher than stated;
- there is no depth to that part of the business plan that shows how the partnership would raise the funds to upgrade or maintain the building, just an indication that these costs are considered to be minimal;
- running costs have been calculated using current figures from the council but this does not include 'items such as telephony, ICT, broadband, administration, HR etc';
- it cannot be assumed that the council's revenue grant, from which these running costs are paid currently, will continue;
- furthermore, these costs would increase if the organisation moves to a larger building and no account has been made for this increase in the financial forecast;
- there is no clear asset management plan for the building and no evidence that the appellant appreciates the requirement for capital investment or payment of ongoing maintenance costs;
- even a small unexpected cost could jeopardise the viability of the project; and
- the identified user groups do not appear to be financially robust and may well rely on donations for their own funding; it would strengthen the business plan if it included confirmation from potential private sector partners who may be able to afford higher rents.

3.13 In terms of governance, the council considers that the board of trustees has a strong skill set but it is unclear how the organisation will be sustained in the longer term should core council funding decrease. The proposed establishment of a user group for the proposed hub is welcomed but the authority considers that there is little detail as to how services would be delivered.

3.14 The council advises that, on 26 April 2018, it approved the Council's Workspace: Office Space Strategy. This includes a rationalisation of built assets in Inverurie entailing the release of Gordon House and the refurbishment and extension of the Town Hall. The extension would take up existing car parking space at the town hall with displaced provision being provided at the former Market Place School site. Following a review of town centre sites in council ownership, this was identified as the only site for the replacement parking which met planning and transportation policy requirements. Demolition of the former school was approved on 14 June 2018 in order to reduce the cost of business rates, maintenance

and security and to avert potential health and safety risks arising from vandalism. Demolition has not taken place.

3.15 The creation of a car park on the site of the former school is also considered to be of potential benefit to the wider town centre. This view is based on a town centre impact assessment reported to elected members as part of the office space strategy report. The council advises that no comparable study has been carried out in relation to the third sector hub proposal due to lack of available detail.

3.16 A transport assessment has still to be carried out and planning permission has not yet been granted. It is suggested that it was impractical to prepare a transport assessment for the council's car park proposal by 4 January 2019 when, to meet the terms of the Act, the council had to make a decision on the asset transfer request. A similar point is made in relation to the fact that planning permission had not been applied for by that date.

3.17 Council officers advise that, notwithstanding the central location of the town hall in the community and the opportunity for sustainable travel which that presents, there will still be a need for a significant number of trips by car to carry out council business. Furthermore, the extended premises are likely to generate additional trips. To mitigate this additional impact and demonstrate sustainability, it is suggested that the office space strategy will be supported by a review of town centre parking. This is likely to include a mixture of out of centre, long-stay parking and short-stay provision in the centre. The latter provision would accommodate visits to the new council offices but would not provide dedicated office parking, which is seen to be unnecessarily restrictive. Access to the proposed car park is not likely to be taken from the existing narrow lane but from other adjoining land in the council's ownership at Wallace Road.

3.18 The council advises that it is working with the town hall user group and wider community to address concerns that the existing accommodation has limited disabled access, poor facilities and a lack of flexible space.

3.19 Should the town hall refurbishment go ahead, the council will use its wider estate to provide decant accommodation for users displaced during the works.

3.20 The authority emphasises that failure to provide parking at the former school site would not only have a critical impact on the town hall proposals but also on the strategy as a whole, with knock-on effects for other communities.

CHAPTER 4: CONCLUSIONS AND RECOMMENDATION

4.1 Chapter 13 of the Scottish Government document Asset Transfer: Guidance for Relevant Authorities, 2017 provides advice on assessing 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 and detailed at paragraph 1.11 above;
- (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.

I consider each of these elements below.

(i) Delivery against Section 82 criteria

The reasons for the request

4.2 I consider that the proposed creation of a third sector hub in Inverurie has the potential to provide significant advantages to the local voluntary sector and the people it works to support. The claims made by The Garioch Partnership that the hub would lead to improved cooperation and capacity building amongst partners and efficiencies through the shared provision of front desk and back office services appear to be credible. Indeed, these arguments are ones commonly cited by public sector organisations when promoting property rationalisation strategies.

4.3 The hub would also have the potential to benefit customers of the various partner organisations who would be able to access the services they provide in one trip rather than, potentially, visiting a number of different premises. It may also be that they would be directed from one organisation to another in a way which may not happen when organisations are not co-located. I accept the suggestion that the anonymity provided to customers in a multi-purpose hub would help to minimise the stigma attached to using some services in stand-alone locations, such as money advice, for example. The suggestion that the proposed hub would be a safer working location for third sector staff who may otherwise be working alone is a reasonable point, as is the claim that it would provide greater opportunities for volunteering. I also accept that the proposed location of the hub in the former Market Place School would meet sustainable transport objectives. The central location in Inverurie would enable the maximum number of users to walk or cycle to the hub and the proximity to bus stops and the railway station would maximise opportunities for public transport use.

4.4 I note that the council does not oppose the principle of creating such a facility and has sought to work with the partnership to identify property regarded by the council as suitable for the proposed use.

4.5 I also consider that the partnership's desire to seek greater financial sustainability is an appropriate and important goal, particularly as the organisation is almost wholly dependent on an annual council grant for its income. The council has no proposals to cut this but, understandably, given the financial pressures faced by local authorities, has not been able

to rule out a change in future. To this end, the establishment of a business trading arm, operating on a social enterprise model, which would reinvest surplus income to support development of the hub, is a positive strategy. Again, I note that, in principle, the council is supportive of this approach. If the hub was to be successful in growing and strengthening the third sector in and around Inverurie, I consider that it is also reasonable to conclude that this has the potential to reduce spend by the public sector in future years.

4.6 In terms of governance, the partnership board claims a wide range of skills and a good track record of delivery. The council acknowledges the strong skill set of the board and welcomes the proposed establishment of a user group for the hub. I have no evidence to suggest that the existing good governance of the partnership could not be transferred to the running of the hub. The council states that it is unclear how the organisation will be funded if council core funding decreases but, as I have found above, this is potentially a good reason to pursue the hub initiative.

4.7 However, I also consider that the detailed proposals for the hub are not sufficiently well developed to provide the necessary level of confidence that it would attract the level of partnership activity needed to guarantee success. The list of 24 potential users submitted in support of the request provides an indication of support but more than two-thirds of the comments are unattributed. Most of these comments express support and interest in general terms with only a few (Inverurie Boxing Club, The Gaitherin and Garioch Women for Change) making reference to a potential time commitment and none apparently being aware of costs, in the absence of a pricing strategy.

4.8 Of the fifteen letters of support produced by the appellant, four are from two individuals providing well-argued support for the principle of a hub but not offering any involvement in its operation. Of the remaining 11 letters, Port Elphinstone Community House indicates that it would use an IT room, Alcohol and Drugs Action indicates that it is open to moving, Human Factors Safety Associates advise that it would set up a training room in the hub and book it at least one day per week, with a view to expansion, and Dr Macleod and Aberdeenshire North Foodbank consider the premises would provide a suitable location for future community-led disaster recovery services.

4.9 The petition provides a large number of positive comments but is not accompanied by any analysis as to how these would translate into use of the hub. The list of potential partners included in the business plan is also lacking in detail as to what their prospective involvement would mean in terms of day to day usage.

4.10 There is a suggestion that some, unspecified, income may accrue in the short-term as a result of being able to accommodate uses that require to be decanted as part of the town hall refurbishment. The council advises that this would not be necessary but, in any case, I cannot regard this as material in terms of the long-term business plan.

4.11 Overall, I find the principle of establishing a third sector hub in the town to be a good idea; I find the principle of the partnership seeking greater financial sustainability to be sound; governance arrangements for the partnership are robust and could transfer to operation of the hub; I can see that there is a lot of goodwill behind the proposed transfer; and I find the information provided to be a good starting point for a business case. However, for the most part, the business case is lacking in board level commitment by potential partners to hours of use at known levels of charges. Without more detail on even key tenants, it is hard to be convinced that the hub would have the take up within the sector

it would need to succeed. It might, following implementation of the proposed marketing and communication strategy but, from the evidence provided, I am not able to conclude with a reasonable degree of confidence that would be the case.

Other information provided

4.12 The Garioch Partnership also propose to establish the following services in the former school: a resilience and disaster management centre, a tourist information point, an affordable nursery, business start-up facilities and affordable and available community space.

4.13 It is clear that the voluntary sector played an important role in supporting community recovery following the flooding in 2016. It is also evident that premises from which that support was provided are no longer available. However, I also note the council's advice that its disaster recovery policy has been updated to take on the lessons from dealing with the aftermath of Storm Frank. Additionally, the partnership has not produced evidence that use of the former school would be better than use of other buildings which the authority says are available. In order to avoid confusion and duplication, it is critical that all parties involved in emergency planning agree their prospective roles in advance of any event. To that end, it would have been helpful in this case to see evidence that the third sector is part of a joined-up approach with the council and emergency services. There may be a role for the likes of Samaritan's Purse and the food bank in emergency planning but it is not obvious to me that it is one that involves the need for accommodation at the former Market Place School.

4.14 The partnership has not provided information as to the level of service it is intended to provide at the proposed tourist information point nor how that relates to existing provision. Consequently, I am not able to draw any meaningful conclusion on this aspect of the proposals.

4.15 I consider that the development of a nursery run as a social enterprise by the partnership's proposed business trading arm is a worthwhile objective, both in terms of the service it would provide and the potential to generate income for service development. However, there is no detail in the business plan to support this aspect of the proposals. There is no evidence of demand nor how the service would be delivered for affordable fees. I appreciate that it is unlikely funding would be committed prior to transfer of the building but an indication of how this would be provided and a provisional undertaking based on a detailed business proposal would help to generate the confidence that it this a feasible proposition.

4.16 Similarly, there is little evidence to confirm that, however worthwhile in principle the business start-up facility would be, there is a demand for the services it would provide. Nor is it clear that it would complement existing provision, nor that the set-up of the facility can be funded. Separately, I do consider it likely that some modest economic development advantage would accrue from the proposed recruitment of development workers and reception/caretaking staff to support service delivery from the hub.

4.17 The partnership provides anecdotal evidence that there is a need for more lettable community space in the town. However, it does not give a convincing rebuttal of the council's assertion that there is capacity, that space is available at a cheaper hourly rate than that proposed at the hub and that the position will improve locally with the completion

of the community campus. Specifically, the partnership has not produced evidence to show what accommodation is available, nor what the charges and occupancy rates are. I would also expect first aid and food safety requirements to apply regardless of property ownership. I do take on board concerns that some users may feel uncomfortable using school-based campus facilities. However, I am not persuaded that this concern is at a level that would off-set reservations about the financial robustness of the business case for providing more accommodation.

4.18 Generally, I find that all five of the services listed in paragraph 4.12 above have the potential to be valuable components of the proposed third sector hub. However, in each case, insufficient information has been advanced in relation to demand, funding and relationship to existing service provision. Consequently, the business case does not provide the necessary degree of confidence that these could be integral and successful elements of the hub.

4.19 To reduce costs and provide a common starting point, the Scottish Government's document, Asset Transfer – Guidance for Relevant Authorities, 2017, recommends that the relevant authority and community transfer body obtain a joint valuation of the asset. I appreciate why such an approach would be helpful in identifying a value on which to base discussions. It is not clear why this did not happen in this case. On review, the council valued the former school at £290,000. The partnership has not obtained its own valuation. However, joint valuation is not a statutory requirement and I have no grounds to question the council's valuation and accept this as the market value. Paragraph 13.15 of the Scottish Government asset transfer guidance indicates that the community transfer body must provide a proportionate request that demonstrates clear benefits with the appropriate level of information to support the application, commensurate with the value of the asset and the level of proposed discount. Given my conclusions at paragraphs 4.11 and 4.18 above, I find that the appellant has not demonstrated that the proposed £285,000 discount can be justified. I note that paragraph 13.12 of the Scottish Government's Asset Transfer Guidance for Relevant Authorities, 2017 states that 'a larger discount will require a stronger case to be made with an appropriate level of benefits demonstrated effectively' and consider that this supports my finding.

4.20 In August 2018, the council commissioned Ryden, surveyors, to provide a building survey report on the former school building. Ryden estimates that a budget of £146,682, excluding VAT and fees, should be allowed to carry out maintenance works before the building is reoccupied. The partnership has not budgeted for any works to carry out initial repairs or future maintenance. It has not commissioned its own survey so I have no evidence that the partnership is working to a different budget from that recommended by Ryden. The partnership does not have any proposals to carry out partial demolitions which, although requiring up-front investment, would have the potential to reduce future maintenance costs. However, I did note on my site inspection that a two-storey temporary classroom unit has now been removed by the council. The partnership's proposal is to raise the finance to develop the site once the transfer has taken place. Work would then be prioritised depending on the needs of tenants. This approach raises a number of concerns.

4.21 The former school is a large building which although, on the evidence of the Ryden report, is structurally sound, is in a poor state of repair. It was evident from my site inspection that further damage has taken place in the eleven months since the date of the Ryden survey with a likely attendant increase in repair costs. It may be that not all repairs would be required at the outset but it is inconceivable to me that repairs of roofs, ceilings,

plumbing and windows, along with redecoration, would not be a prerequisite of reoccupation, at least for a core number of rooms.

4.22 The partnership indicates that it would start to explore potential grant funding once the transfer has taken place and indicates a number of bodies that would have the potential to offer support. However, there is no evidence of meaningful discussions with these bodies that might give an indication of funding levels likely to be available. I appreciate that funding bodies cannot give grants for work on the building until it is in the partnership's ownership but it may have been possible to secure provisional offers. This approach would have provided a much higher degree of confidence that funding would be available which could accommodate an economically viable hub. The partnership considers that care and maintenance of the building for a year would cost approximately £30,000, which can be covered from current reserves. This seems to me to be a risky strategy where there is no longer term financial plan in place.

4.23 I also have concerns about the ability of the partnership to provide and sustain revenue funding, particularly as both the appellant and council recognise that there is no guarantee that core funding from the council will continue at existing levels. In particular, there is no asset management plan for the building to ensure it is maintained in a good condition once restoration is complete.

4.24 The council has pointed out that estimated running costs are based on the council's overheads for the building in 2016/17 covering rent, rates, utilities, trade waste and cleaning. Rental expenditure by the council of the former playing field and two-story temporary unit is included in this figure but would not apply to the partnership. However, telephone, broadband, information technology and human resources costs are not included and would apply to the partnership. These costs are paid currently from the council's annual grant to the organisation. No allowance has been made to cover an increase in such costs in a larger building. The council is also correct to point out that any proposal to manage revenue costs by reducing opening hours would have an impact on community benefits realised and, consequently, the strength of the business case supporting the proposed transfer.

4.25 Furthermore, there is little evidence from voluntary organisations that usage would be at a level to justify the occupancy levels suggested in the business plan.

4.26 Overall, I have concerns that the financial planning which underpins the transfer request is not sufficiently robust. There is a risk that transfer would not secure the restoration and future use of the building and could even put the wellbeing of the community transfer body at risk. There is also a risk that, if the project did not succeed, the council would come under pressure to resume ownership of the building at a time when not only is it seeking to rationalise its built assets but also refurbishment costs would be higher.

Economic development, regeneration, public health, social or environmental wellbeing

4.27 The general approach of encouraging joint working and improving efficiency amongst voluntary organisations through development of a centrally located third sector hub has the potential to promote or improve economic development, regeneration, public health, social wellbeing and environmental wellbeing by strengthening the organisations providing services in these sectors. For example, of the organisations which have written in support of the transfer, if Steps Into Wellness benefits in the way it anticipates, that could

reasonably be expected to have benefits for health and social wellbeing. Additionally, the specific services listed at paragraph 4.12 above could offer benefits in the same areas. For example, the provision of a business start-up facility could benefit economic development and regeneration.

4.28 However, the partnership does not offer any evidence of existing performance of the local third sector in these areas, nor suggest targets as to how the proposed hub would contribute to improved performance. It is not possible, therefore, to assess what benefits the proposed transfer might unlock.

Inequalities of outcome resulting in socio-economic disadvantage

4.29 My comments at paragraphs 4.27 and 4.28 above address this criterion.

Other benefits

4.30 Although not a listed building and not situated in a conservation area, the Victorian former school building, if not necessarily the twentieth century additions, has some architectural character and historical connections for the community. Whilst these considerations would not be sufficient on their own to justify retention of the building, I consider that conversion to a third sector hub would have the benefit of preserving this traditional building.

4.31 I also find that reintroducing an active use to the building would be likely to lead to increased footfall in the vicinity of the proposed hub, to the benefit of businesses and services located in the town centre.

Benefits of an alternative proposal

4.32 There is one alternative proposal for the site: the council's proposed use for car parking to support its office space strategy. The proposed car park would be accessed from Wallace Road to the south-east of the former school. I have summarised the proposals at paragraphs 3.14 to 3.20 above. I find that the benefits of this proposal are as follows:

- it enables the council to declare Gordon House in Inverurie surplus to requirements, thus reducing revenue expenditure and, potentially, realising a capital receipt;
- Inverurie Town Hall would be refurbished and extended to provide more modern office and service accommodation in a town centre location with good public transport access;
- provision of car parking on the former school site would not only replace parking displaced from the town hall by the extension but, subject to a proposed review of town centre parking, would also benefit the wider town centre by extending short-stay provision;
- the council would work with the town hall user group to ensure that the refurbishment overcomes community criticisms of the existing building in relation to accessibility, flexibility and quality of facilities; and
- demolition of the school would remove the costs to the authority associated with ownership of a large, vacant building.

4.33 A review of town centre sites in the council's ownership did not reveal a suitable alternative site for parking to support the town hall proposals. Therefore, if the former school site was not available for parking, this would prevent the town hall refurbishment going ahead on the basis planned, with knock-on effects for other buildings and council budgets. A letter appended to the business plan suggests that the former school playing field would be a more suitable site but this is not owned by the council.

4.34 I consider that the potential advantages of this proposal by comparison with the asset transfer proposal are that implementation has been approved by the council, it would enable the council to provide more modern, cost-effective and accessible public services, and would, in time, reduce the council's revenue budget.

4.35 Both proposals would remove an eyesore from the edge of the town centre and both would generate greater footfall in the town centre to the potential benefit of local shops and services.

4.36 Setting aside my conclusion on the business case, I consider that the potential advantages of the third sector hub proposal are that it would be of greater benefit to the third sector and the community it supports, it has the potential to reduce the reliance of the sector on council funding and would retain a building that it of some local architectural and historic interest.

4.37 The appellant points out that a transport assessment has not been carried out for the proposed use of the school site for car parking. I accept that the absence of a transport assessment is not ideal but also take on board the council's advice that the timescale for issuing a decision on the transfer request meant this was not practicable. From my site inspection, I could not see any overwhelming reason why access from Wallace Road would not be possible but this is a matter to be concluded through the planning application process. It is not necessary for planning permission to be in place prior to the council taking a decision on the asset transfer request. The appellant has raised concerns about the decision-making process for the office space strategy. My remit does not allow me to comment on this matter.

4.38 I attach significant weight to the fact that the council's alternative proposal is supported by a formal decision of the council. On the other hand, as I explained above, I have concerns about the strength of the business case which supports the asset transfer request. On balance, I find that the council's proposed use of the cleared site for car parking compares favourably with the proposed use as a third sector hub.

Benefits of alternative proposal in relation to other matters the authority considers relevant

4.39 I do not have any evidence to suggest that there are any other benefits of the alternative proposal that I have not addressed in paragraphs 4.32 to 4.38 above.

Obligations imposed on the authority that affect its ability to agree to the request

4.40 The council has expressed concern that, if it was to transfer the asset on the terms proposed, it would not meet its duty to secure best value under the Local Government in Scotland Act 2003 and, specifically, the Disposal of Land by Local Authorities (Scotland) Regulations 2010. I have addressed this matter at paragraph 4.19 above where I found that the amount of discount sought is not justified by the evidence that the claimed benefits

can be realised. I also make further comments on best value compliance at paragraphs 4.45 to 4.52 below.

4.41 I am not aware of any other obligations on the council, such as restrictions on the title of the land, that affect its ability to agree to the partnership's request.

Other matters which the authority considers relevant

4.42 I also find that both the proposed town hall extension and refurbishment and the community campus, currently under construction, have the potential to satisfy some of the objectives advocated for the community hub and note that the council is cooperating with the appellant in an effort to find alternative locations for the proposed hub that are more likely to be acceptable to both parties. I am not aware of any other matters which the council considers relevant that I have not covered above.

(ii) Alignment with Scottish Government National Outcomes

4.43 Paragraph 13.4 of the Scottish Government's Asset Transfer Guidance for Relevant Authorities advises that asset transfer at less than market value is justified when the benefits empower communities and align with local and national priorities. The guidance goes on to say that such benefits are likely to align with one or more of the Scottish Government's National Outcomes. The appellant identifies potential contributions to the council's outcomes. However, the guidance also states that, whilst the benefits may contribute to the realisation of council or community planning policies and priorities, the value of the benefits should be judged on a broad basis, not only in relation to the council to which the request is made. In light of this guidance, I have considered whether the benefits of the proposed Market Place School transfer align with national outcomes.

4.44 If developed successfully, by bringing voluntary organisations together to provide improved support and development, the third sector hub would contribute to two outcomes, in particular:

- we have tackled the significant inequalities in Scottish society; and
- we have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.

Different elements of the proposed hub would also contribute to other outcomes. For example, the proposed business start-up facility would contribute to outcomes relating to business and employment opportunities, the proposed nursery would contribute to the outcome relating to giving children the best start in life and the work of a number of potential partners would contribute to the outcome regarding living longer, healthier lives.

(iii) Demonstration of Best Value

4.45 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. The seven Best Value themes are: vision and leadership; effective partnerships; effective governance and accountability; use of resources; performance management; sustainability; and equality. In paragraphs 4.46 to 4.52 below, I explore the extent to which the proposals demonstrate Best Value against these themes.

4.46 In relation to vision and leadership, I find that the goal of the partnership to develop a third sector hub shows excellent vision and I have noted at paragraph 4.6 above that I would expect the existing good governance of The Garioch Partnership, which is recognised by the council, to be transferred to the proposed hub. I have also found potentially close alignment to two national outcomes and a potential contribution to other outcomes. However, as I have also found, the business plan for the establishment of the hub is lacking in the detail necessary to provide a reasonable level of confidence that the vision will be realised.

4.47 The potential success of the third sector hub approach is founded on the formation of partnerships between the appellant and other voluntary organisations. The supporting letters, comments from potential users and petition all show support for the hub. However, as I found at paragraph 4.11 above, in most cases these do not demonstrate a level of commitment such that I can reasonably expect these partnerships to be effective. The support provided tends to show expressions of goodwill and interest rather than board-level intent.

4.48 As I have noted at paragraph 4.46 above, it is reasonable to suppose that the good governance demonstrated by the partnership would transfer to the hub and the proposed establishment of a user group would be a positive step in extending this to embrace new partners.

4.49 One of my principal concerns about the proposed transfer is that the partnership has not demonstrated effective use of resources. In particular, I have found that there is little evidence to show the appellant would be in a position to fund essential refurbishment to bring the building back into community use, nor does it have a viable business plan for proposed commercial or social enterprise activities, nor proposals to fund future routine maintenance. The guidance recommends that evidence be provided that benefits will be delivered over a five-year period. However, the appellant's business plan projects forward three years.

4.50 There is some evidence from the partnership as to how it will monitor performance. For example, there is an indication that it will use tools such as Education Scotland's How Good is Our Third Sector Organisation, which would provide a good basis for continuous improvement. There is also a commitment to measuring outcomes, such as the sustainability and development of smaller groups. However, the suggested performance indicators tend to focus on measuring outputs, such as numbers of users or lets, and social media feedback. None of these is developed in any detail. As a result, the business case lacks robust arrangements to show how progress towards its overarching vision will be monitored. There is an undertaking to utilise user group feedback and report to the board but no indication as to how performance will be reported to the wider community.

4.51 In relation to sustainability, the proposal to re-use a vacant building demonstrates a potentially positive environmental impact. The central location of the building will also enable a significant number of potential users of the hub to access the services it would provide by sustainable means of transport. However, sustainability also means demonstrating that a project is self-financing and I do not have satisfactory evidence that can be achieved.

4.52 The partnership has sought to take into account the different needs of groups within the community and success of the hub could reasonably be expected to reduce inequalities

of outcome from socio-economic disadvantage. This would be consistent with the organisation's purpose of advancing community development by supporting and assisting voluntary groups in the Garioch area with community capacity building and skills development.

(iv) Assessment of outcomes

4.53 Paragraphs 13.8 to 13.12 of the guidance state that it is helpful to have in place a framework to ensure that all issues have been fairly considered and clearly recorded and that this can be placed alongside a similar assessment of best value themes and any other relevant factors. The following matters are suggested for consideration:

- value to relevant authority in existing use;
- value for alternative use/redevelopment;
- value for proposed and other community purposes;
- level of community benefits;
- likelihood that benefits will be delivered over a five-year period; and
- impact of project failure.

4.54 I consider that I have examined the proposed asset transfer in relation to each of these matters in paragraphs 4.2 to 4.52 above. The guidance suggests assessment on a one to five scale to provide an overview. Level one is defined as a very strong contribution, level two a strong contribution, level three moderate, level four weak and level five a poor contribution. On the basis that I find governance arrangements are in place and are acceptable; best value characteristics have been considered but are not demonstrated fully; project benefits are acceptable, could lead to value for money but are not based on robust information; and financial arrangements are weak, I find that the overview which fits the proposed request most closely is that it would make a moderate or weak contribution.

4.55 'Moderate' is defined in the guidance as follows:

'Governance and financial arrangements are in place and acceptable. Best value characteristics have been considered as part of the proposal. Related projected benefits are acceptable and could lead to value for money.'

'Weak' is defined in the following way:

'Governance and financial arrangements are weak. Best value characteristics are not well demonstrated in the proposal. Related projected benefits are not based on robust information and demonstrate questionable value for money.'

4.56 The guidance says that the proposals should then be considered against the financial implications of any decision for short-term budget planning and long-term asset strategies. This consideration should include the current use of the asset and any consequent implications that could arise from the transfer of the asset. I have addressed these matters at paragraphs 4.5, 4.16 and 4.32 to 4.39 above where I have found that the financial implications of the request and the potential impact on the council's office space strategy weigh in favour of refusal.

Overall conclusions

4.57 In relation to section 82 criteria in the Act, I find that establishing a third sector hub has the potential to:

- develop and strengthen the local voluntary sector;
- provide The Garioch Trust and prospective partners with greater financial stability;
- make a positive contribution to economic development, regeneration, public health, social wellbeing, and environmental wellbeing;
- reduce inequalities;
- retain a building of some local architectural and historic interest;
- provide services in a location readily accessible by sustainable means of transport; and
- attract people into the wider town centre, which would help support shops and services.

4.58 However, I also find that:

- there is insufficient evidence that the proposed benefits can be delivered;
- financial planning is not sufficiently robust to ensure the future of the building or the community transfer body; and
- on balance, there is a stronger case for the council's proposal to use the site for car parking to support its office space strategy than to support the community asset transfer.

4.59 Consequently, I find that an assessment of the strengths and weaknesses of the proposals lead me to conclude that the transfer cannot be supported in relation to section 82 criteria.

4.60 The Scottish Government's guidance in relation to alignment with National Outcomes refers to alignment with one or more outcome. Whilst I find that the proposed third sector hub would align closely with two outcomes and has the potential to contribute to a number of other outcomes, the weight I can attach to this alignment is compromised by my findings above that the partnership has not provided sufficient evidence that the proposed benefits will be realised, nor that it has in place a suitably robust plan for the refurbishment and maintenance of the building.

4.61 In relation to best value, I find that the proposed asset transfer request demonstrates best value in terms of governance and accountability and equality, does not demonstrate best value through use of resources and demonstrates some contribution to best value through vision and leadership, effective partnerships, performance management and sustainability. As with my finding in relation to the potential contribution to national outcomes at paragraph 4.60 above, I find that, whilst there is good evidence that the project would make positive contributions in relation to some themes, my overall conclusion is that the proposed transfer would not deliver best value. This is due principally to a lack of evidence that sufficient partners are committed to the project, that essential financial plans are in place and that outcomes will be monitored and reported to show satisfactory progress.

4.62 In terms of the Scottish Government's recommended assessment of outcomes, I conclude that the proposals would result in a moderate to weak contribution to the outcomes listed in the guidance. This concern is underscored by my concerns about the financial planning behind the proposals and the impact on the council's property strategy.

4.63 Overall, I conclude that, whilst the proposals are undoubtedly ambitious and aspirational and there is potential for the proposed community asset transfer of Market Place School to deliver significant benefits in relation to the criteria set out in section 82 of the Community Empowerment (Scotland) Act 2015, the Scottish Government's National Outcomes and the Scottish Government's best value themes, based on the evidence provided by the appellant, the business case to support the transfer is moderate to weak in strength. As such, I do not find reasonable grounds to recommend that the council's review decision on the asset transfer request be overturned.

Recommendation

4.64 I recommend that the appeal be dismissed and the community asset transfer request be refused. If Ministers are minded to uphold the appeal and approve the request contrary to my recommendation, in line with Chapter 14 of the Scottish Government's Asset Transfer Guidance for Relevant Authorities, I recommend that conditions are attached to the transfer in order to protect the discount from market value.

Steve Field

Reporter