

PETITIONS & COMMUNITY EMPOWERMENT REVIEW COMMITTEE

10 OCTOBER 2019

COMMUNITY ASSET TRANSFER – REQUEST FOR REVIEW

LIME GROVE, NORTH BERWICK



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ORIGINAL CAT REQUEST – SUPPORTING DOCUMENTS (ACCESSIBLE ON THE COUNCIL WEBSITE):

[https://www.eastlothian.gov.uk/downloads/download/12928/community\\_asset\\_transfer\\_requests  
- lime\\_grove\\_north\\_berwick](https://www.eastlothian.gov.uk/downloads/download/12928/community_asset_transfer_requests_-_lime_grove_north_berwick)





North Berwick Community Development Company  
35, Westgate  
North Berwick  
EH39 4AG

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





North Berwick Community Development Company  
35, Westgate  
North Berwick  
EH39 4AG

14 June 2019

Company no. SC599775

Dear Ms Currie

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

I am replying to your letter dated 3 June 2019.

The list of documents is as follows (all have been previously submitted):

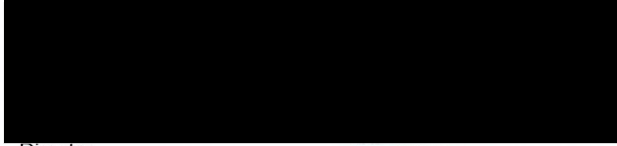
- The Community Asset Transfer Request 13 July 2018
- The attachments that accompanied the CAT
  - Memorandum and Articles of Association of North Berwick Community Development Company
  - Plan of Lime Grove site
  - Business Plan (Appendix 1 separate)
  - National Trust Conservation Agreement
  - 1906 Dalrymple Disposition
  - Title Plan for 1 Rhodes Cottages
  - North Berwick Arts Centre Feasibility Report
  - Three Wishes Report
  - A Community Conversation Report, Spiegel tent, 15 August 2016
  - Lime Grove Public Meeting 26 January 2017
  - Online Survey (Appendix 2b Business plan)
- The supplementary questions asked by ELC and the NBCDC response as submitted on 24 February 2019 (14 attachments).
- The Request for the Review 17 May 2019

With regard to the procedure which the Committee should use, we are content to rely on the written submissions. However, if the Councillors felt it would be helpful to have a site visit, we would be happy to accompany them.

Could you please clarify whether the Petitions and Community Empowerment Review Committee will make the final ELC decision or will it make recommendations to the full

Council. My understanding is that the Petitions Committee is only 4 members. Is this correct?

I look forward to hearing from you.



Director  
NBCDC

## COMMUNITY ASSET TRANSFER UNDER THE COMMUNITY EMPOWERMENT ACT

### NOTICE OF REQUEST FOR A REVIEW

An asset transfer request was made to **East Lothian Council** under Part 5 of the Community Empowerment (Scotland) Act 2015.

The request was made by **North Berwick Community Development Company** and related to: **The former Council Depot at Lime Grove, North Berwick, East Lothian.**

#### **Asset Transfer No 1357 and 1359**

The request was for **purchase** of the land/building at **Lime Grove, North Berwick, East Lothian** and the proposed use of the land/building was for: **A multi-functional community hub**

The request was **refused** by **East Lothian Council** on 12 April 2019.

A **request for a review** of this decision was made to **East Lothian Council** under Part 5 of the Community Empowerment (Scotland) Act 2015.

The request was made by **North Berwick Community Development Company.**

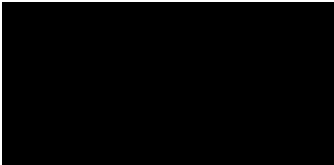
The documents relating to the request for review can be viewed online at: [https://www.eastlothian.gov.uk/petitions\\_and\\_community\\_empowerment\\_review\\_committee](https://www.eastlothian.gov.uk/petitions_and_community_empowerment_review_committee) or subject to prior arrangement hard copies can be made available to view by emailing [cmttepetitions@eastlothian.gov.uk](mailto:cmttepetitions@eastlothian.gov.uk).

The documents relating to the original asset transfer request can be viewed online at: [www.eastlothian.gov.uk/assettransfers](http://www.eastlothian.gov.uk/assettransfers).

General information about the asset transfer scheme is available at [[www.gov.scot/assettransfer](http://www.gov.scot/assettransfer)].







Committees Team  
East Lothian Council  
John Muir House  
Brewery Park  
Haddington  
EH41 3HA

10 June 2019

Sent by email to [cmttepetitions@eastlothian.gov.uk](mailto:cmttepetitions@eastlothian.gov.uk)



Dear Sirs

**Lime Grove proposed Asset Transfer – representation regarding Former Council Depot at Lime Grove, North Berwick, East Lothian  
Asset Transfer No 1357 and 1359 –**

**APPEAL REVIEW PROCESS Further Representation**

Following the recent notification that the Group have asked for a review of their application for asset transfer of Lime Grove Depot I would like the full detail of our previous correspondence to be fully noted in this further petition process.

I would also like to add the following based on reading the appeal document.

The  , as the property directly affected by this proposal, we have not at any time been directly contacted by this group to be consulted on matters of planning, conservation, sustainability, disturbance, neighbour views or traffic and noise concerns. This has not been followed up throughout the recent months leading to their appeal where I would have suggested they would wish to have tried to address with us some of our neighbour concerns which were put forward as our representations to the Council and publicly made available. However, this has not occurred. We note that the funding package is still not clear and the business plan has not been reviewed based on any comments made through the Council’s feedback.

We therefore present all our original concerns again and ask that they are considered fully by the Council in this appeal process. I also note with interest that none of the concerns of the wider Lime Grove Residents Association such as traffic movement and parking have not been addressed at all in the documentation.

We are writing as direct neighbours to the proposed Lime Grove Community Hub project, registering our comments on the proposals from a variety of aspects. We have reviewed the online documents and attended many of the meetings which have taken place over the last couple of years. We would

hope that our comments are registered and considered when the Asset Transfer Team at ELC consider the proposed application.

### **Consultation**

We have attended most if not all Lime Grove project meetings along with other residents of Lime Grove. At each meeting we expressed our concerns regarding various aspects of the proposals and asked questions about sustainability, need and demand. These questions have been consistently ignored. At no time has the committee approached us or the other [REDACTED] residents to discuss their proposals and the impact that any of this would have on [REDACTED] property. The fact that [REDACTED] could lose its right of access does not appear to have been considered at all in any of the proposals. That this has not been discussed with the house owners involved is quite shocking in itself given that the documents state that the architects are 'very experienced in community consultation', never mind the lack of courtesy from the committee leading this.

Consultation has been undertaken in asking the wider community what its needs are and the answer at the top of the questionnaires has been for a youth facility and health facility and yet at the at St Andrew Blackadder presentation and the following ones at the Hope Rooms the consultants (SKS) steered the room towards the need for a theatre and performing arts facility along with play and a bunkhouse based on the need for financial income generators. This is, in our view, a return to the 2014 Jura report led by the Arts steering group in the town, which in itself suggests the facility would NOT be viable without £90k revenue funding.

In respect of t the town's needs - we have no Town Plan and no Strategy to base any of this on. The Scottish Govt is asking communities to develop these in partnership with their Local Authority. This has not happened here at this point but I am very aware that it has been discussed by the Area Partnership. These Plans need to take into consideration all existing facilities, use thereof and local and future local plan proposals so that communities can have a real say in the future of their communities.

We recognise that North Berwick Is growing rapidly, and we recognise the need for new infrastructure to cope with this. However, in our opinion, the proposal is a 'knee jerk' reaction to save a piece of land the existence of which is unknown to many folk in the town and which residents would not venture to Lime Grove at any time. So why would they now? We moved to [REDACTED] over 20 years ago knowing then that the site would eventually be sold so why do we see this project appear now? Surely the approach should be to work with the Council to look at the capital and income receipts from the site to deliver better community facilities within the Town for those groups who need it – young people and elderly. The NBT we know has funding, and at this time has not committed any money towards this project. We suggest that if NBT were to support a community initiative of this nature it is one which is based on wider community planning and addresses the many needs and we would suggest looks to develop a site that is far easier to be developed than Lime Grove.

### **Environmental and Planning Considerations**

There is no assessment of the potential significant adverse impact on the setting and character of the [REDACTED] [REDACTED] building of the proposed development as set out in the diagram with specific reference to the proposed "hostel" building. The layout as proposed may therefore be contrary to the relevant land use planning framework contained in the recently Adopted Local

Development Plan, Strategic Development Plan, Scottish Planning Policy, National Planning Framework 3 and the Historic Environment Scotland Policy Statement.

Without detailed design information, the proposed location of the “hostel” building may significantly adversely impact the privacy and amenity of neighbouring existing properties e.g. [REDACTED] due to positioning, height and massing. This is contrary to Local Development Plan Policy DP2 on the matter. This should be located at distance from existing development if located on the site at all.

There is no assessment of impact upon the protected coastline due north of the proposed development. The Firth of Forth is a designated SAC, SPA, SSSI, and RAMSAR site. The proposed development will have an impact upon these designations and this must therefore, we believe be appropriately assessed before any development or community asset transfer be permitted. The proposed development is considered potentially contrary to the national, strategic and local land use planning policy framework above until proven otherwise.

The proposed development will have a significant adverse impact upon a local known great crested newt population (as well as known nesting sites of bats and owls). This species of newt is afforded the highest protection within UK and European environmental legislation and the proposed development would appear to take no cognisance of its existence in the proposed layout. This is, again, contrary to the land use planning policy framework set out above.

There is no assessment of the capacity of the proposed access on to Lime Grove and the Lime Grove Tantallon Road junction to take the level of traffic to be generated by the proposed development. The site is located to the east of the town on a poorly served public transport route. The scale of parking proposed encourages the use of the private car contrary to Scottish Government policy on the need to promote alternatives to such use.

The location is 2km by car from the town centre and over 3km from the new homes at Millers Housing or Cala/Walker on Grange Road. Walking along the beach is 1.2 km but it is not lit at the east end so an unlikely walking route from October to March and not safe for young people. Therefore, the distances for young people will extend for 6 months of the year. There is a bus service to Lime Grove, but this adds a cost to anyone coming to a facility that is targeted at younger and elderly people, age groups with least income. These age groups are the most unlikely to drive and are being asked to come to the far east of the town to socialise. Unlike the west of the town there is unlikely, due to planning constraints, to be further major housebuilding in the east after ‘Barley Brae’ is completed, so the east will have by far the least populated family housing compared to the west of the Town with the newer developments on Grange Road, and Dirleton Avenue.

### **Supporters/displacement competition**

The lack of letters or statements of support for this project in the business plan from other local organisations underlines our concerns. Apart from the youth cafe and film club there is no other statement from organisations or any groups who have committed to use this facility and on which to base any firm financial proposals. All finances have been based on facilities elsewhere, and not on firm agreements for users here in North Berwick. At this stage of development of a proposal of this nature it would be expected to see firm partnership agreements in principle to back up the financial proposals when asking for Asset Transfer.

The community centre seems to be ‘in discussion to not compete and look at programming and even share management’ but have not come out publicly saying they are not concerned and believe the demand can cater for two sustainable facilities. The various churches, Hope Rooms, Masonic Hall,

Scouts and schools have not, it would appear, been consulted as regards their views on need and demand and displacement of services.

Regarding competition, two facilities have not been mentioned - The Lighthouse has been developed over the last year and has become home to a number of small enterprises and a major dance school - one of the suggested users of the new facility. The play research suggests that there is no other play provision locally and yet Whitekirk Hill gained full planning in July 2018 for a play facility and a café bigger than the one proposed in Lime Grove. It is known in the play industry that users will travel the majority of the time by car so the location of Whitekirk Hill, which will be open several years before Lime Grove can be, will create major competition and impact on the financial plan proposed.

### **Need and Demand analysis**

Facilities for young people and older people need to be central and accessible and we would have expected there to have been a consultation with existing providers to actually understand the real needs - in our opinion this has not happened. There is no published audit of use of current facilities – which was raised at several meetings - business consultants, in our opinion, ought to have carried this out as a base line in their research. Where are the real gaps in provision? No evidence has been presented, no facts or figures on where facilities are full and no demand analysis of future demand or comments from groups requiring facilities to grow their organisations.

The evidence is anecdotal - like any other community facility we would expect full usage at peak hours, but this does not warrant a £3.75m new build in this current economic climate if it cannot be filled 7 days a week.

The proposal suggests a big hall for arts and drama – we have a large hall with a stage at the High School for all the proposed evening events – if there was such demand these could all take place now in our town at the school. It is incredible that the school facilities were not even mentioned in any documentation associated with this proposal. The Scottish Government wishes to see any new build to be sustainable and based on the fact any existing provision is proven to be full. Let us sweat our assets before we build new - East Lothian Council have the same approach and yet there is no evidence of this in these documents. The Jura report in 2014 was clear that the theatre was not sustainable even through use of volunteers and would need deficit funding of up to £90k per year. How is this particular venture going to be a profit-making facility all of a sudden?

The play facility which has been proposed would compete with Whitekirk Hill, diluting its uniqueness in the town. The implementation of full allocation of nursery places by the Scottish Government will see children at nursery more hours than before and could impact on the demand of preschool markets.

### **Sustainability comments**

We recognise that there is a need for additional community infrastructure in North Berwick and would happily offer any expertise we have to a more realistic project and site location. However, at this stage, we cannot support this proposal as our biggest concern is the lack of financial sustainability, driven we believe by lack of evidence of need and therefore the Town would, should this proceed, have a large white elephant on its hands within a short space of time.

Our reasons for such concern are based on the following analysis of the financial plans at Appendix 1 of the business plan:

### **The Theatre**



Income projections suggest £19,000 per year from an average 15 hours lets per week from 80 hours available . Where is the use for the other 65hours per week?

There is then added a secondary Theatre/hall income of £65,000 from a 'show in a week' production 3 times year which is based on a model in Dunblane. Dunblane is a unique sports, arts and community youth venue brought about as a result of a from a unique tragic set of circumstances and has been in existence for many years . If it were a 'home grown NB need' the school could provide the facilities for groups to do this in school holidays already.

The suggestion that a new build theatre/hall space is needed, based on an activity run at a facility in Dunblane, is not a robust financial assumption to attach to this facility.

### **The Youth Provision**

The assumption of income of £15k per year for 150sqm of space for the youth Group. Disappointing to see the LGATG put this burden on the youth Group when they can get reduced rates at the Hope Rooms and this will be starting a new venture with no guaranteed income to pay this lease.

### **Café**

The assumptions show £100k-plus income of which 25-30% is projected to derive from evening use of the café. However, the cafe staffing costs do not cover evenings. The café staff are only costed from 9-4pm each day. Clearly a major flaw in the financial modelling.

The café is only ever projected to turn a profit of less than £10k over the first 5 years. With the additional café staff costs not currently factored into the calculations that profit may well be reduced to a break-even position – or worse. The café staffing levels is overall considered to be minimal when compared to other café facilities within community venues.

What is most interesting is the level of overall income projected. Major sports and community facilities with larger play facilities across the Lothians serve over 250,000 customers but average income of only £120,000 per year. Based on this factual knowledge we believe that the suggested income projection for the café and capacity of users likely to use the facility over the course of a year is questionable at best.

### **Play provision**

The play is promoted as unsupervised play which is not the current approach in the industry across leisure or community facilities. There are trained play workers within the facility, not just café assistants keeping an eye or taking fees.

The document makes no reference to the industry regulated requirements for providing children's play and the capital costs for the room do not allow for play equipment to be installed so this suggests a low level of equipment. The size to allow 0-10 years olds is very small and could cause accidents with such an age range.

The play provision is suggesting an income of £32,000 per annum from 9,000 users. Across a major local authority which provides the highest quality play within its sports centre in 6 locations, towns much larger than North Berwick (and with no competition) achieve only 10,000 visits per year in its soft play. To suggest that this venue will achieve 9,000 per year is again highly questionable and unverified in any way.

It is also noticeable that there is no expenditure (except a nominal £1000) attributed to the play facility for repairs, staff, insurances, ROSPA inspections or cleaning of specialist equipment.

As noted above the venue will now have direct competition at Whitekirk which will decrease the income generating capacity causing even further concern as to the suggested profits for the play provision.

### **Bunkhouse**

The income projections suggest £131,000k in year 2, with related year 2 expenditure to operate this building is £41,000.

If any current bed and breakfast operator, hotelier or indeed YHA believed that they could turn a profit of nearly £100k (69%) on an annual basis they would all operate bunkhouses. However, they do not and many operate their businesses to a minimum profit each year.

Having spoken to those in the industry - both social enterprises and commercial ventures - our view is that these figures are hugely inflated and are not based on the true costs of operating such a facility, accommodating 32 people throughout the year.

To suggest that what in reality is standalone business on the site can be conducted with such low operating costs, in particular using a 3 hour per day employee, is fanciful at best.

### **Sustainability Summary**

Having analysed the financials we suggest that the profit margins on all areas of the proposed building over the first 5 years are exaggerated and unverified. Therefore, potentially rendering the whole facility unviable over the 5-year period and unsustainable in the longer term. This should be considered very carefully by East Lothian Council in this asset transfer process. There is no current funding offered for revenue stream or capital costs as we understand it.

The two areas which concern us the most are the theatre 'one show in a week' concept suggesting £65k income and the bunkhouse at £131k (with optimistic levels of costs) with no substantiation of these elements to give confidence in this venture.

With such major voids in the income projections, which we would estimate are overestimated by up to £100k per year, and questions over low expenditure items, we cannot see how this can be taken forward.

Furthermore, VAT, and in particular its potential impact on profit margins, does not appear to have been considered. It is unlikely that the build of this nature will be VAT exempt and the estimated £3.75m build cost will attract 20%, potentially irrecoverable, VAT.

Finally, it was interesting to note that on the financials it was stated that the North Berwick Trust are paying for the development cost to get the project off the ground, and the capital costs. We understand that this has yet to be confirmed. This indicates a conflict between the documents submitted for this CAT. Also, within these figures there is a workbook suggesting capital start-up costs, which whilst is clearly under costed is in fact costing for another facility called the 'Beacon', and not for the Lime Grove site – further undermining our confidence in the projections.

In conclusion we would like to stress this is not about us being "NIMBYs" as we would have welcomed a social enterprise option for the site or, preferably, a health sector solution, but most importantly one which offers long term sustainability and is right for the site and location. The site has many physical challenges for whoever eventually takes it on and, having been involved in community development and asset transfers for over 20 years for social enterprises, we would suggest to the new

NBCDT that they focus on a Town Plan in getting the right site which they can make profitable and sustainable and not one which is not right for the community and targeted "just because it's there" with people thinking that it is the only site available for development of a community facility.

Thank you for considering our comments in this process and we look forward to hearing the Council outcome of the CAT process for this site and hope that the correct assessments are made and we look forward to following due process through to February 2019.

Should you require any further information from us as site neighbours we would be happy to speak to you directly.

Yours faithfully

[Redacted signature]



RECEIVED BY E-MAIL ON 17 JUNE 2019

FROM: [REDACTED]

Dear CAT group,

I am writing to represent the views of the resident of [REDACTED] [REDACTED]  
[REDACTED]

I have read the submitted letter for North Berwick Community Development Company and see no new information in it that was not available in the original CAT request. Furthermore the NBCDC have not engaged directly with the residents of the neighbouring properties to address any of the concerns we raised in our original representation around access, environment, sustainability and boundaries.

We see therefore no new information that would lead us to change our views of the original request, which we set out in greater detail in our letter of October 2018.

Best wishes

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





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

**To:** North Berwick Community Development Company (“NBCDC”)

**Date of Notice:** 12<sup>th</sup> April 2019

This Decision Notice relates to the Asset Transfer Request made by NBCDC on 27<sup>th</sup> August 2018 in relation to Lime Grove, North Berwick, East Lothian (“Site”). The Request was for the development of a Community Hub (“Proposal”).

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

East Lothian Council (“ELC”) has considered the Request in terms of Section 82 of the Community Empowerment (Scotland) Act 2015 (“the Act”) and ELC has also had regard to the guidance issued by the Scottish Ministers, as required by section 96 of the Community Empowerment (Scotland) Act 2015. ELC has reached the decision that ELC have reasonable grounds in terms of Section 82 of the Act to refuse the Request. The reasons for this refusal are:

### **1. 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; (iv) environmental wellbeing or any other benefits and accordingly it is not unreasonable for ELC to refuse the request.
- 1.2 Furthermore in accordance with S 82 (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.

### **2 Funding**

- 2.1 There are significant costs attributable to the Proposal (an estimated £7.25 million for acquisition and build costs alone). Whilst the business plan is well structured, ELC are of the view that there is insufficient evidence that the significant initial, short term and long term funding sources can be properly secured to deliver the Proposal.
- 2.2 NBCDC’s funding strategy for the acquisition and build costs are almost wholly reliant on one key funder, the North Berwick Trust (“NBT”). However, given the significant acquisition and build costs that are needed there has been no evidence from NBCDC or NBT that this is a likely and viable funding source. Any funding from NBT is also subject to a grant scheme and to be eligible for the grant, certain criteria is required to be met

by NBCDC. ELC have no evidence that NBT are minded to support a funding application. ELC have no clarity or details of the criteria to access the funding and any conditions that would be attached.

- 2.3 Additional potential funders were listed in supplementary documentation (funding strategy) but were not of significant value or the appropriate certainty to meet the projected cost of the Proposal.
- 2.4 There is no clear defined strategy on the acquisition of the Site and it remains at an option stage that either (1) NBT will buy the Site and lease it to a newly constituted community body or (2) provide funds to support the acquisition that will allow the community body to lever additional funds. There is no evidence provided to support the proposition that option 2 would realise the leveraging of the significant additional funds that are needed to deliver the Proposal.
- 2.5 ELC had regard to the fact that NBCDC note in the business case that the funding environment is increasingly competitive and the perception of North Berwick as an affluent place would inhibit funding. The business case also states that initial capital funding would face similar difficulties.
- 2.6 NBCDC have not provided an appropriate level of information on the significant funding levels that are required for a Proposal of this size, scale and cost. This impacts on the ability to promote or improve economic development or regeneration of the Site.

### **3 Governance**

- 3.1 ELC recognise that members of NBCDC are clearly varied in skill set and have the experience to assist with the delivery of the Proposal. ELC recognise that the business plan also provides a clear narrative on the purpose, roles and duties of a board of directors of the community hub, if this structure is established. Members of NBCDC are clear on the types of external expertise needed to deliver the Proposal. ELC recognise that the members of NBCDC are committed to seeing the Site regenerated. ELC also note that the Site is referred to in the Local Area Partnership Plan.
- 3.2 However, ELC were concerned about key elements of governance around the Proposal to enable it to be delivered. There is no confirmation on (1) the final legal structure to be adopted to purchase and develop the Site and (2) the entity of the ultimate owner. Given the uncertainty on the ultimate owner, ELC are concerned that it has not been able to effect the proper diligence in accordance with the relevant legislation and guidance.
- 3.3 With reference to 3.2, ELC cannot effectively assess the level of succession planning desirable for a Proposal of this size and scale and cost. ELC cannot obtain certainty on how succession planning will be monitored and measures put in place to ensure that the Proposal promotes/improves economic development or regenerates the Site.
- 3.4 ELC were concerned that the strategic objectives were primarily aligned with NBT's strategic objectives. ELC were of the view that this is not representative of the community. The community is much wider than NBT with varied needs and interests.
- 3.5 NBCDC have not provided an appropriate level of information or detail on the governance and intended structure that is required for a Proposal of this size, scale and cost and this impacts the ability to deliver the Proposal and to regenerate the Site.

### **4 Deliverability**

- 4.1 ELC recognise the commitment to staffing the hub through volunteering opportunities. NBCDC provided a clear narrative on the role of each volunteer to ensure that

volunteers are fully engaged, supported and know the value of their role. It is also noted that the volunteers will carry out a range of roles including supporting the delivery of the performing arts programme, day time activities for all age groups, informal learning and sharing of skills with young people's groups and promotion of the facilities and opportunities available. ELC recognises the importance of the voluntary sector but had concerns over how this would be delivered on a continued basis to ensure that the level of volunteers is maintained to deliver the significant operational activities of the Proposal.

- 4.2 For a Proposal of this size, scale and cost, the lack of evidence of the likelihood of securing the significant funding streams impacts on the ability to deliver the Proposal.
- 4.3 The final legal structure to be adopted to purchase and develop the Site has not yet been finalised and it remains unclear on the entity of the ultimate intended owner. This lack of clarity impacts on the delivery of the Proposal.
- 4.4 The business plan names numerous delivery partners to assist with the delivery of the operational aspects of the Proposal, including occupancy. The named delivery partners include, but are not limited to, ELC, NBT, East Lothian Youth Theatre, independent dance operators, East Lothian Works. ELC did not receive any letters of representation from any delivery partner identified in the business plan to demonstrate how it would deliver the Proposal. ELC would have preferred to see representations from the named delivery partners in support of the Proposal. This is considered critical to demonstrate the deliverability of the Proposal.
- 4.5 The business case notes that a 2014 feasibility study showed a £90k loss annually.
- 4.6 ELC were concerned on the potential inclusion of a learning academy as part of the Proposal. It was confirmed by East Lothian Works that a learning academy does not feature in any future strategic or operational arrangements of East Lothian Works. There also appears to have been no consideration that NBCDC would need to become accredited before delivering the proposed service. North Berwick High School has been recognised as a role model for demonstrating effective collaboration between the School and Skills Development Scotland to create work pathways and therefore the Proposal is not demonstrating a need for this, as it already exists. ELC were concerned on the lack of clarity on how the Proposal would complement East Lothian Works/ the Education Authority's role.
- 4.7 NBCDC have not provided an appropriate level of information on the ability to deliver the Proposal both short term and long term. This impacts on the ability to promote or improve economic development or regeneration of the Site.

## **5 Sustainability**

- 5.1 ELC acknowledge that there is evidence of market research in the business plan and some further responses received in the supplementary documentation.
- 5.2 A number of elements of the business plan costings are still at high level for the operational phase of the Proposal especially as profit once operational is not anticipated until 3<sup>rd</sup> year of trading. ELC were concerned that the running costs of the facility were a conservative estimate.
- 5.3 ELC were of the view that there were displacement and duplication issues with existing or planned facilities that had not been properly considered.
- 5.4 For a Proposal of this size, scale and cost, no clear details were provided on probability/impact and mitigation of foreseeable financial barriers and challenges.

- 5.5 ELC were not persuaded that as a Site it was sufficiently integrated into the Community geographically. There were significant concerns that this impacts on the feasibility of accessing the Proposal, especially for less able/ less affluent groups.
- 5.6 NBCDC have not provided an appropriate level of information on the ability to sustain the Proposal both short term and long term. This impacts on the ability to promote or improve economic development or regeneration of the Site.

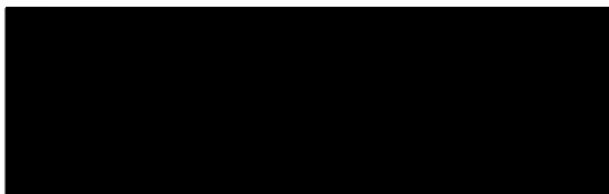
## **6 Community Support**

- 6.1 ELC acknowledges that there has been community engagement in the form of public meetings, consultations and surveys. ELC are also aware of that the Site is referred to in the Local Area Partnership Plan. However, ELC were concerned that the responses to community surveys were only indicative of a percentage of the population of North Berwick, considering the relatively low level of responses.
- 6.2 For a Proposal of this size, scale and cost and the vision to service existing community activities/needs/address local demand, there is no detail/representations/evidence in terms of actual commitment for proposed occupancy/use from either the community groups or delivery partners referred to in the business plan.
- 6.3 ELC did not receive any letters of representation from any community group identified in the business plan. ELC would have preferred to see representations from the community groups in direct support of the Proposal. This is considered critical to demonstrate that the Proposal is supported and will deliver the community benefits. The absence of representations from community groups indicates limited support for the Proposal and the benefits associated with the Proposal which directly impacts the long term use of the Site.
- 6.4 ELC is named as a potential partner in the business case albeit there has been limited engagement with ELC. However ELC were not persuaded that the Proposal supported ELC's overarching strategies. There was a lack of evidence for a Proposal of this size, scale and cost of the need for the facility, the synergy with surrounding community activities and how surrounding community groups' needs will be met.
- 6.5 ELC note that given the significant size, scale and long terms running costs of the Proposal that ELC would have preferred to have evidence that the Proposal would include communities beyond North Berwick. ELC did not receive any evidence from NBCDC that NBCDC have given any consideration to this. There appears to have been no consideration of ELC expansion plans for the North Berwick High School to include drama facilities and performance arena which the Proposal is also seeking to provide. It is preferred that curriculum facilities are on school site to ensure the school can operate an effective timetable
- 6.6 ELC were concerned that there was a failure to properly engage with service areas of ELC that were referred to in the business case to ensure a full and comprehensive analysis of impact on ELC services, need, displacement.
- 6.7 There appears to be a lack of engagement with the neighbouring properties and representations received from the neighbouring properties expressed concerns with the Proposal.
- 6.8 NBCDC have not provided an appropriate level of information to properly evidence community support for the Proposal both short term and long term. ELC considered this a critical consideration. This impacts on the ability to promote or improve economic development or regeneration of the Site.



**7** Right to review

7.1 As the application has been refused, you have a right to apply to the Council to review this decision. Any application for review must be made in writing to



by 10<sup>th</sup> May 2019 which is 20 working days from the date of this notice. Guidance on making an application for review is available at <https://beta.gov.scot/policies/community-empowerment/asset-transfer>

