

WEST DUNBARTONSHIRE COUNCIL

Report by the Chief Executive

Council: 19 December 2007

Subject: Renton Community Education Centre, Renton

1. Purpose

- 1.1** To update members on progress in relation to the disposal of Renton Community Education Centre and to seek a decision on a way ahead.

2. Background

- 2.1** Renton Community Education Centre was closed on 31 March 2006 following the approval of the closure by Council on 9 February 2006.
- 2.2** A decision was taken by the Children's Services Committee on 14 February 2007 to dispose of the Community Education Centre on the open market.
- 2.3** At the Council meeting on 28 February 2007, following submission of an emergency item of business and suspension of Standing Orders, the Council reversed the decision taken on 14 February 2007 and Members agreed to transfer Renton Community Education Centre at nil cost into Renton Community Ownership.

3. Main Issues

- 3.1** Legal Services have been trying to negotiate the transfer of the Centre to the Renton Community Development Trust for several months. However, it has not been possible to reach agreement with their legal representatives on whether there should be a restriction placed on the property transfer, which would allow the Council some form of remedy in the event that the Centre was subsequently sold by the Trustees.
- 3.2** The Council decision made no specific mention as to whether there should be any restrictions imposed on the transfer. However, in accordance with normal practice and in order to best protect the Council's interests, it was determined to impose a restriction in the title. The purpose of the restriction would be to ensure the Council's position is adequately protected in the event that (a) the Trustees subsequently disposed of the property to a third party, or (b) the Trust went into liquidation or became bankrupt and their assets were disposed of by the liquidator/trustee. If either of these events occurred, provided appropriate conditions were imposed, the Council would be entitled to make a claim for the market value of the subjects or have title to the premises transferred to them.

- 3.3** The Trust have refused to accept any restriction or burden in the title. Their position is that this would affect the Trust's ability to obtain funding to allow works to be carried out to upgrade the premises.
- 3.4** Although it is accepted that a burden or restriction may potentially cause issues for a lender, it is officers view that this is something that should be overcome and that a restriction is necessary in order to protect the Council's position. Failure to impose such a condition may leave the Council open to criticism in the event that the property is disposed of. In effect, should the venture fail then the property could be disposed of on the open market but the Council would not receive any share of the proceeds, despite having disposed of the property for no consideration.
- 3.5** Members are reminded of the Best Value Guidance issued by the Government in terms of the Local Government in Scotland Act 2003. In particular, local authorities are obliged:
- To make the best use of public resources ... including land and property.
 - To ensure that fixed assets are managed efficiently and effectively.
 - To secure that the full financial consequences of decisions are assessed and feedback on major financial decisions is provided.
- 3.6** It should also be borne in mind that auditors have already indicated concerns that the decision by Council to dispose of the CE Centre for no cost was not supported by a robust review of the implications of the decision, and that the decision has significant resource implications for the Council.
- 3.7** In theory, it may appear that the Council has the following three options open to it:-
- a) accede to the request from the Trust to dispose of the property for no consideration and without imposing any conditions;
 - b) transfer the property to the Trust for no consideration but subject to appropriate condition as explained in paragraph 3.2;
 - c) terminate negotiations with the Trust and agree to dispose of the property on the open market.

However, option a) is only put forward at the behest of the Trust but this is not an option that could be supported for the reasons outlined in this report.

4. Personnel Issues

- 4.1** There are no personnel issues.

5. Financial Implications

- 5.1** The Estates Section has placed an open market value on the subjects in excess of £100,000. If the Council was to transfer the Centre to the Community Trust for nil value then the Council would be foregoing the right to obtain a valuable capital receipt.

6. Risk Analysis

- 6.1** Should the Council transfer the property to the Development Trust then the Council will require to forego the right to receive the open market value of the property. In addition, should the Council transfer the property without imposing appropriate conditions on the transfer then the Council would lose the right to receive a capital payment if the asset was subsequently sold. Further, the Council will open itself to adverse comment and further action from auditors and/or the Scottish Government.

7. Conclusion

- 7.1** The purpose of the transfer of Renton Community Education Centre at nil cost was to allow a facility in Renton to continue to be made available for community purposes. Unless an appropriate restriction is placed on the title, the Council may see the property disposed of on the open market at some point in the future and the Council would lose any entitlement to a capital receipt.
- 7.2** The Scottish Government has already consented to disposal of the property to the Trust for no consideration. It is understood that the government was not aware of the views of auditors when consenting to the disposal.
- 7.3** Should Members be minded to reaffirm the earlier decision of the Council to dispose of the property to the Trust for no consideration then any disposal should be subject to appropriate conditions (as noted in the report) and, given the comments received from auditors, further observations should be obtained from both auditors and the Scottish Government prior to confirming the disposal on these terms.
- 7.4** It is considered that the Council would be failing in its duties if it were to dispose of the property to the Trust without imposing any condition making provision for the possible failure of the venture.
- 7.5** Notwithstanding the foregoing, in the light of comments received from Auditors and given the Council's financial position, it is felt appropriate to review the decision to dispose of the property to the Trust. The sale of the site on the open market would secure a valuable capital receipt for the Council. Such a course of action would accord with the original recommendation which was made to and accepted by the Children's Services Committee on 14 February 2007. A decision to dispose of the property on the open market would address the criticism which auditors have made concerning the resource implications for the Council if an asset is disposed of for no consideration.

8. Recommendation

- 8.1 The Council agrees that negotiations with the Trust should be brought to an end and that Renton Community Education Centre should be disposed of on the open market.**

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Chief Executive
Date: 10 December 2007

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Background Papers: Report to Children's Services Committee on 14 February 2007

Wards affected: 2