

Asset Transfer under the Community Empowerment (Scotland) Act 2015

DECISION NOTICE – AGREED

Friends of Dundonald Castle SCIO 31541

To: Phil Galbraith, Project Coordinator, Friends of Dundonald Castle SCIO (SCO31541)

Address: Dundonald Castle Visitors Centre, Winehouse Yett, Dundonald, Ayrshire KA2 9HD.

Date: 11 March 2020

This Decision Notice relates to the asset transfer request made by **Friends of Dundonald Castle, a Scottish charitable incorporated organisation (“SCIO”) having a charity number SC032542 and company number CS000158 (“FODC”)** validated on 7 October 2019 in relation to the request to purchase the property known as the **Dundonald Castle Visitors Centre and adjacent land, Winehouse Yett, Dundonald, Ayrshire KA2 9HD.**

South Ayrshire Council has decided to **agree to** the request.

This decision was made by the Council’s Leadership Panel at its meeting on 18 February 2020 after a thorough evaluation process and the reasons for the decision are as follows:

1. The disposal is considered to be reasonable and will remove the asset from Council responsibility including the associated liability of any future costs and repairs.
2. The submitted documentation is considered to be proportionate to the scale and nature of the asset request. The non-financial benefits demonstrated throughout the proposal are considered to be proportionate to the value of the asset and justify the proposed discount in market value.
3. The proposal has demonstrated that it will make a positive contribution to meeting the strategic objectives of the Council Plan of ‘Effective Leadership that Promotes Fairness’ by promoting and ensuring compliance with the Community Empowerment Act and ‘Increase the profile and reputation of South Ayrshire and the Council’ by ensuring best use is made of all Council-owned facilities and that opportunities to

rationalise properties are maximised through investment, disposal and Community Asset Transfer.

4. FODC has provided adequate evidence that they are a robust and viable organisation, with good standards of governance and the capacity to deliver their proposal.
5. Full consideration has been given in the submission to the aims, objectives and vision of FODC who have shown clear thought to the future direction of how the asset transfer will benefit the community post-transfer with comprehensive evidence of need/demand provided.
6. FODC has provided adequate evidence of partnership working arrangements, relevant links with groups, along with strong community engagement activity.
7. FODC has provided adequate evidence that indicates that sufficient financial resources are/will be in place by the time of the asset transfer including costs associated with the transfer of the asset, a satisfactory income and expenditure and cash flow forecast has been provided and some consideration has been given to contingency planning in maintaining financial reserves to be utilised to enable operations to continue in the event of an unforeseen or unplanned situation.
8. FODC has provided adequate information that confirms they have the necessary capabilities to manage the centre in a manner consistent with FODC's purposes and have undertaken a broad range of consultation to understand any potential impacts of acquiring the asset.
9. There are no obligations that may prevent, restrict or otherwise affect the Council's ability to agree the request, should the Leadership Panel approve the asset transfer request.
10. An assessment of State Aid has been undertaken and any discount on market value given would not constitute State Aid as the proposal and its activities will serve only a distinct, very local market, with minimal possibility of intra-community trade and is unlikely to affect trade between Member States.
11. There are considered to be no reasonable grounds for refusing the asset transfer request.

The attached document specifies the terms and conditions subject to which the Council would be prepared to transfer ownership of the property to you. If you wish to proceed

with the acquisition, you must, within a period of 6 months of the date of this notice, submit to the Council an offer to acquire ownership of the property. The offer must reflect the terms and conditions attached and may include other such reasonable terms and conditions as are necessary or expedient to secure the transfer within a reasonable time.

The offer must be prepared by a firm of solicitors and should be addressed to:

Catriona Caves
Head of Regulatory Services
Chief Executive's Office
South Ayrshire Council
County Buildings
Wellington Square
Ayr
KA7 1DR

The offer must also contain the following:

1. The name of the subjects on which the offer is made
2. The name of the Community Transfer Body
3. The date of the Decision Notice
4. Confirmation that the specific terms and conditions under which the Decision Notice was issued are acceptable

Following receipt of the formal offer it is expected that the asset transfer will be concluded within 6 months. If the transfer is not made within 6 months then a request for an extension should be made as soon as possible.

Right to request a review

If you consider that the terms and conditions attached differ to a significant extent from those specified in your request, you may request a review by the Council.

Any request for review must be made in writing by 8 April 2020 which is 20 working days from the date of this notice, to:

Catriona Caves
Head of Regulatory Services
Chief Executive's Office South Ayrshire Council
County Buildings
Wellington Square
Ayr
KA7 1DR
Email: catriona.caves@south-ayrshire.gov.uk

Guidance on requesting a review is available within the Scottish Government [Guidance for Community Transfer Bodies](https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-community/pages/17/) (Section 17 and 18) available at <https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-community/pages/17/>

Catriona Caves

Head of Regulatory Services

Terms and Conditions

Dundonald Castle Visitors Centre and adjacent land, Winehouse Yett, Dundonald, Ayrshire KA2 9HD (the property and land)

Friends of Dundonald Castle SCIO 31541

1. The sale price shall be:-

TWENTY EIGHT THOUSAND POUND STERLING (£28,000)

2. The property shall be used solely for community use as a Visitors Centre for Dundonald Castle to promote the advancement of education and heritage and for other cultural and community-based uses by Friends of Dundonald Castle SCIO ('FODC'), as outlined in their Constitution and in accordance with the proposals contained in the asset transfer request. Any change in use will require the prior written consent of the Council which shall not be unreasonably withheld in the case of a proposed use which is consistent with the purposes of the FODC Constitution;
3. The transfer will be conditional on:
 - A. Satisfactory confirmation that offers of grant/funding for delivery of the project are in place at the date of transfer; and
 - B. The requisite consents, statutory or otherwise, required to carry out the project being in place at the date of transfer, including without prejudice to the foregoing, the consent of the Scottish Ministers to the formal exclusion of the property from the guardianship of Scottish Ministers.
4. FODC agree to a claw back agreement whereby the Council will have the right to recover the financial discount being the sum of £3,500 if the property is no longer used by FODC for community use in terms of condition 2 or if any other condition is not met;
5. FODC will grant a first ranking Standard Security over the property in favour of the Council;
6. In the event that FODC wishes to dispose of the property either in whole or in part, there is reserved to the Council a right of pre-emption.

The above terms and conditions shall be subject to such other reasonable terms and conditions as the Head of Regulatory Services may consider appropriate to protect the best interests of the Council.

These Heads of Terms are not intended to form part of any legally binding contract and are expressly subject to completion of formal missives in accordance with Scots law.