

Shetland Islands Council – Community Asset Transfer

Decision Making

Once a valid, complete asset transfer request has been submitted, the Council must decide whether to agree to or refuse the request. This document sets out the steps the Council will take when making its decision.

Please note, this approach may be subject to review.

Decision making process – Shetland Islands Council

The review of all completed asset transfer applications will be conducted by a **panel** of Executive Managers from relevant Council services. The panel will make a recommendation to the Chief Executive, following assessment of the asset transfer request.

Officers from other Council services or relevant authorities may be asked to contribute where they can bring relevant expertise; for example, NatureScot and Scottish Water may be asked to participate to offer views on environmental issues or outcomes and Police Scotland and Scottish Fire and Rescue personnel may be brought in on matters concerning community safety.

All applications will be expected to contain essential criteria that demonstrate the basic requirements for a successful asset transfer; the criteria should be determined during the pre-application stage. These are included in Table 1.

Table 1: The minimum requirements for an asset transfer request to be considered

Community representation	The asset transfer request is from a community body acting on behalf of clearly defined community (geographic/interest)
Eligibility	The community body making the asset transfer request has a constitution that meets the requirements for eligibility under the Act (whether for lease or ownership)
Business Plan	The community body has a business plan demonstrating the need driving the asset transfer request and the sustainability of the project
No detriment to relevant authority function	The proposed asset transfer does not cause any detriment to the overall ability of the relevant authority (or community planning partners) to deliver services and improve outcomes
No obligations or restrictions	There are no obligations or restrictions that preclude the asset transfer going ahead
Planning pre-application	The community body have used the Planning Service's pre-application process during the business planning phase to identify any potential Planning-related issues associated with the proposed development

The decision making process will proceed in two phases – the 1st a consideration of whether the asset transfer **can** go ahead, and the 2nd an appraisal of whether it **should** go ahead. Consideration will also include comparing the request with alternative proposals, although by necessity this will occur at different stages of the process depending on where the alternative proposal comes from. Alternative proposals may include:

- Another asset transfer request – received around the validation date (stage 1 and 2)
- A proposal received during the notification period following the validation date (stage 1 and 2)
- An alternative option put forward by the Council provided this alternative is already set out in existing policies or strategies – e.g. the Council's Asset Strategy and associated Implementation Plan; a Masterplan such as that started for the Knab site in 2016/17

Stage 1: Can the asset transfer proceed?

This phase of the decision making process will involve an initial appraisal by Community Planning and Development staff, which will then be discussed and agreed by members of the panel. It involves reviewing the reasons for the request and is based on the evidence presented by the community transfer body.

The assessment is based on a scoring matrix weighing up the strength of the application as it relates to a number of criteria. The final score will demonstrate the extent to which the asset transfer is feasible and the project likely to succeed, based on the evidence supplied. The score is designed to be as objective as possible and demonstrates how the benefits and 'ability to deliver' have been assessed to ensure that a transparent and equitable decision is taken. The scoring matrix and instructions for its use are provided in appendix 1.

Stage 2: Should the asset transfer proceed?

This stage will be carried out by the panel and weighs up whether the proposed asset transfer is in the public interest, based on the business case put forward by the community transfer body and the extent to which this offers 'value' to the Council. In many cases, this can be achieved by a swift appraisal of Best Value using the Community Asset Transfer Value Assessment Tool – included in appendix 2.

Plotting the score from the scoring matrix against the market value differential requested by the community transfer body gives a useful assessment of whether the asset transfer should proceed based on the value it offers in terms of community benefit.

For high-value assets, assessment could also involve using the 'Five Case Model' Building Better Business cases methodology, which is the established policy for Council decisions around spending proposals. This stage of the process will be co-ordinated by the Executive Manager, Assets, Commissioning and Procurement with input from other relevant officers where necessary.

This process involves comparing the proposal with any alternative (either from another community body or from an existing asset management strategy) and where no alternative is offered, comparison will be against the existing use of the asset as a 'do nothing' option. Using the Five Case Model, qualitative and community benefits can be assessed alongside

financial elements to ensure that value can be defined in an equitable way, even when the offer in the asset transfer request is below the market value.

Notes on the process

Both stages of the process will be the same for all asset transfer requests and are here made publically available so that community transfer bodies are aware beforehand of the criteria their proposal will be assessed against.

The Council can continue to engage in dialogue with community transfer bodies throughout the decision making process.

Reasonable grounds for refusal

The Council is entitled to refuse an asset transfer request if it has reasonable grounds to do so. As a broad guide, reasonable grounds for refusal could include:

- The community transfer body has not sufficiently demonstrated their ability to deliver the proposal
- The proposed asset transfer request will not result in an improvement in outcome(s) for the community concerned when compared to alternative proposals (including the asset remaining in the hands of the Council)
- The benefits of the proposed asset transfer are judged to be less than the benefits offered by an alternative proposal
- The proposed asset transfer interferes with the ability of the Council to carry out its functions, deliver services and improve outcomes in the community
- The asset transfer request does not align with the outcomes specified in Shetland's Partnership Plan
- The outcomes that the proposed asset transfer will support are poorly defined or there is a lack of evidence to support the proposal

Decision notice

Having made its decision, the Council must inform the community transfer body via a decision note. A decision note sets out the **decision taken** and the **reasons behind it** and must be issued no later than **6 months** after the validation date (i.e. the decision making process must take no longer than 6 months).

The decision notice should include detailed commentary supporting the decision. For Phase 1, this includes the scoring matrix and the scores applied, together with commentary explaining why these scores were allocated. For Phase 2, this would be an explanation of how the principles of Best Value have been used to assess whether the request should or should not proceed. The decision notice will also include notification of the right to appeal or review, the mechanism for doing this and relevant dates.

If the decision is to proceed with the asset transfer, the decision notice must also:

- Specify the terms and conditions on which the Council is prepared to transfer ownership, lease the land or confer the rights requested

- State that, to proceed with the process, the community transfer body must submit an offer
- Specify the period within which the offer must be submitted. This must be at least 6 months from the date of the decision notice

The terms and conditions (including price or rent, and where appropriate any conditions to protect the discount, clawback or title conditions) on which the Council would be prepared to agree to the transfer may be the same or different from, or in addition to, any terms and conditions set out in the request. However, if they are significantly different this is likely to result in an appeal.

Appendix 1

Decision making – Phase 1 scoring matrix

This phase of the decision making process is designed to establish whether an asset transfer can go ahead – i.e. whether the transfer will deliver a community benefit and whether the community transfer body is in a position to deliver the proposed project. Once it is established that the minimum requirements have been met (Table 2), Table 3 can be used to score the application for transfer and come to a decision on whether the asset transfer should proceed.

The minimum requirements for an application to proceed to the Phase 1 assessment are set out in the table below. These criteria **MUST** be met before the assessment can take place.

Table 2 Minimum requirements for asset transfer request to proceed to phase 1 assessment

Community representation	The asset transfer request is from a community body acting on behalf of clearly defined community (geographic/interest)
Eligibility	The community body making the asset transfer request has a constitution that meets the requirements for eligibility under the Act (whether for lease or ownership)
Business Plan	The community body has a business plan demonstrating the need driving the asset transfer request and the sustainability of the project
No detriment to relevant authority function	The proposed asset transfer does not cause any detriment to the overall ability of the relevant authority (or community planning partners) to deliver services and improve outcomes
No obligations or restrictions	There are no obligations or restrictions that preclude the asset transfer going ahead
Planning pre-application	The community body have used the Planning Service's pre-application process during the business planning phase to identify any potential Planning-related issues associated with the proposed development

Using the scoring matrix

Table 3 below sets out the criteria against which the application will be assessed, these cover:

- Outcomes and community benefit: the outcome the asset transfer aims to improve and the alignment between this outcome and the outcomes of the Shetland Partnership.

- Community involvement: demonstrating community consultation and engagement in developing plans and community support for proposals
- Sustainability: robust future planning, underpinned by suitable support and capacity-building
- Delivery: the community transfer body can demonstrate, through their application, that they have the ability and means to deliver their proposal and have given serious consideration to the challenges and responsibilities associated with taking on the asset concerned

The criteria will be allocated a score that reflects the strength of the application and the evidence used to support it. Scores will be out of 10 and assigned as follows:

0-2 – provides no information or only minor detail to allow assessment and no evidence

3-5 – provides sufficient detail to demonstrate understanding of the requirements of asset transfer and supports with some evidence

6-8 – provides in depth detail of proposals that meet requirements and supports with relevant evidence

9-10 – provides excellent detail of proposals that exceed requirements and supports with high quality evidence

Assessment criteria can be weighted if necessary to make distinctions between alternative proposals – this can be used as and when required. Please see the table below for details of the criteria that will be assessed.

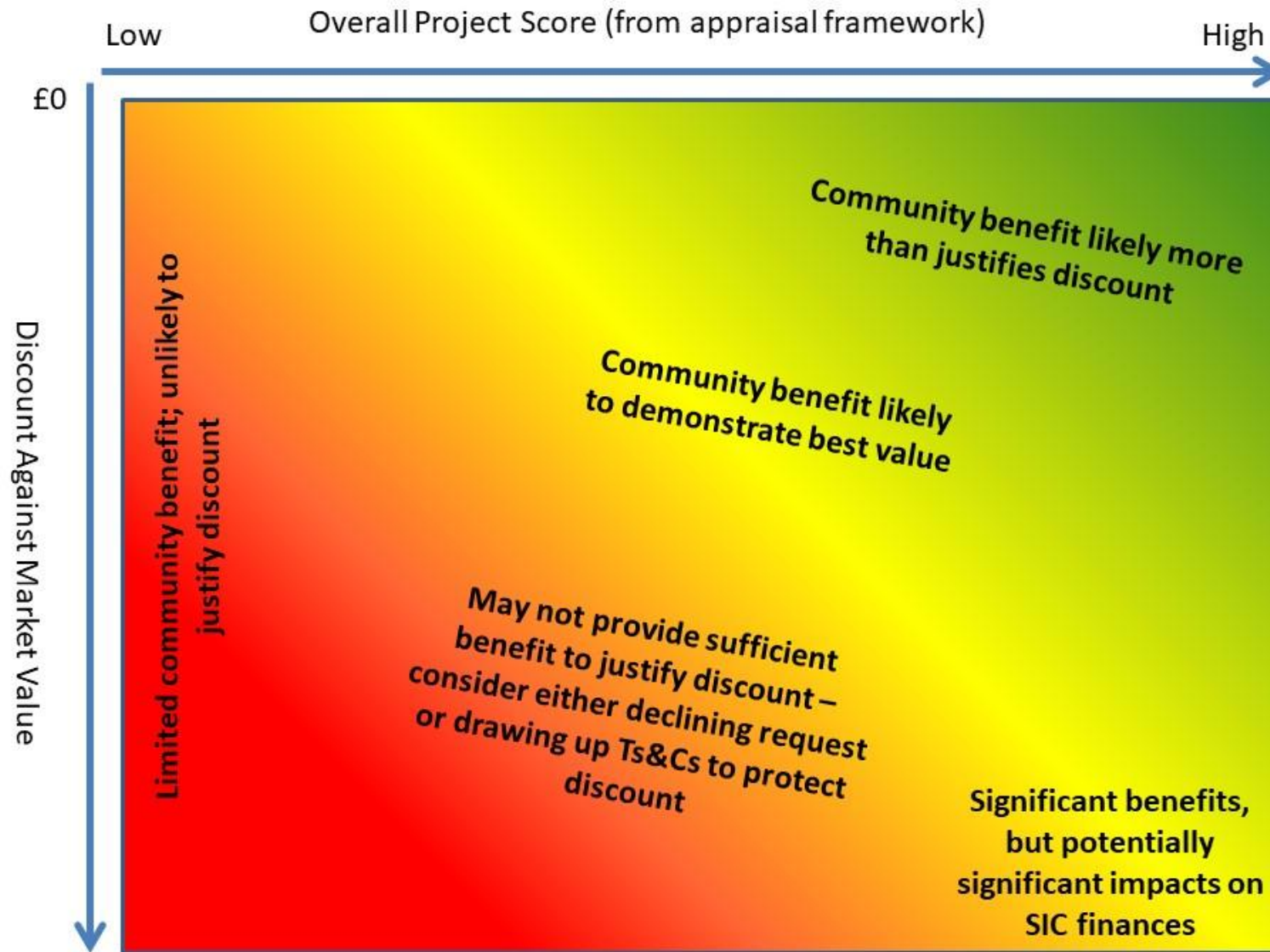
Table 3: The phase 1 scoring matrix

Assessment criterion	Comments	Score
Outcomes		
Outcomes – application clearly supports an identified need and outcome improvement, supported by evidence		
Outcomes – application clearly supports Shetland’s Partnership Plan outcome(s)		
Use of asset – application clearly sets out how the asset will be used and how this will improve outcomes and address inequalities		
Negative Consequences – application demonstrates understanding of any potential negative consequences and details of mitigating measures that will be put in place		
Community Involvement		
Community involvement – application shows evidence of consultation or other engagement with relevant stakeholders		
Community involvement – application demonstrates evidence that views of stakeholders have informed the proposal		
Community support – application demonstrates support for proposals from the local community		

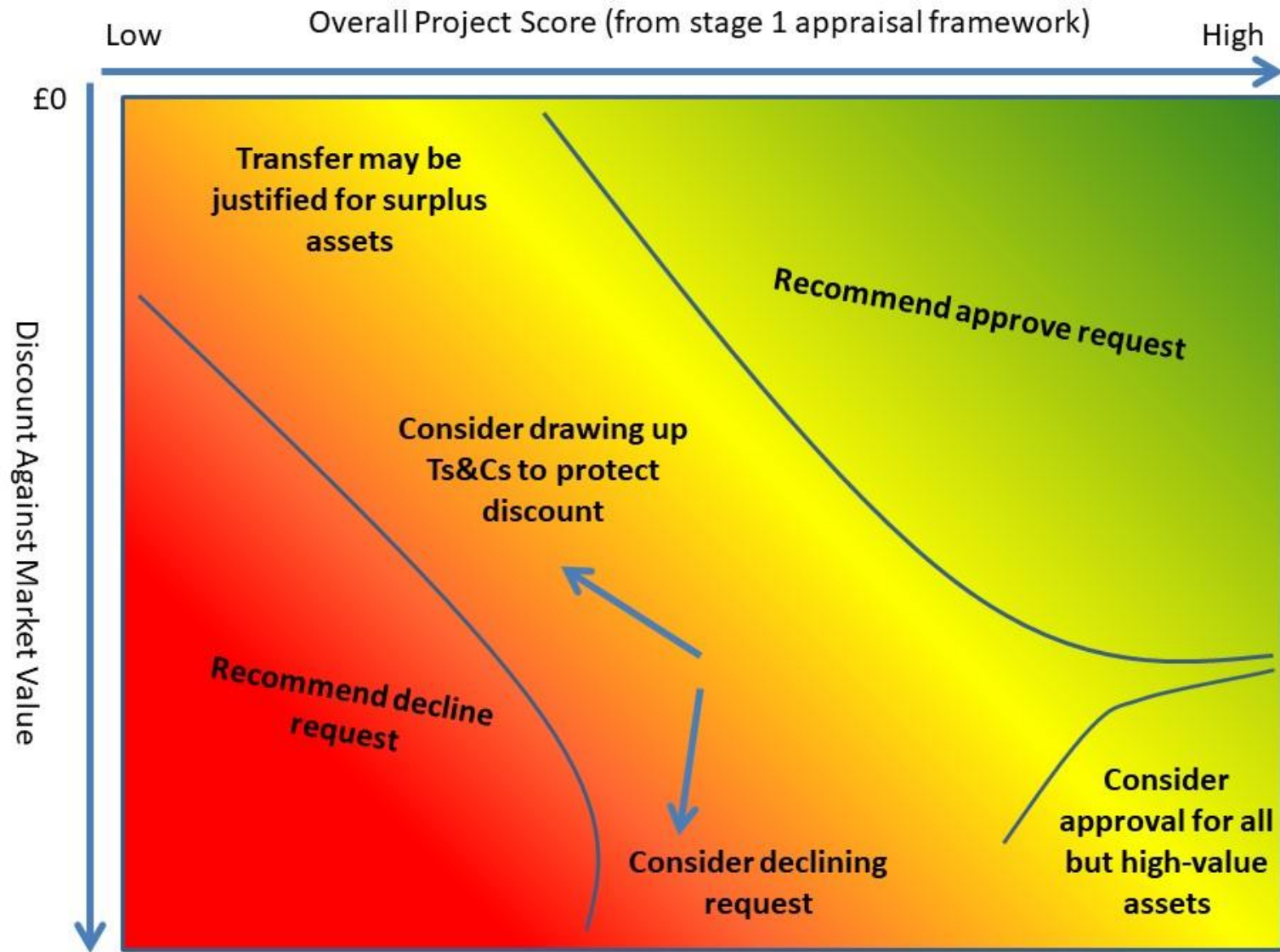
Sustainability		
Financial sustainability – application clearly sets out plans to secure funding and/or generate income with high chance of success		
Financial sustainability – application clearly sets out ongoing costs and demonstrates how funding and/or income meets/exceeds these		
Financial sustainability – application demonstrates capacity and capability for future growth		
Monitoring – application clearly sets out how improvement in outcomes will be measured and reported		
Advice – application demonstrates that suitable advice sought and evidence of how this has influenced proposal		
Capacity – application from a community body with the capacity to deliver the proposed project (skills, experience, qualifications, time); or viable plans are in place to secure assistance where required		
Ability to deliver		
Governance – application by a community body with suitable governance arrangements in place to deliver the proposed project		
Bank account – application by a community body with a suitable bank account		

Financial records – application by a community body with financial records (preferably going back at least three years) demonstrating sound financial governance		
Track record – the community transfer body already owns or leases assets that are being used to improve outcomes and/or have delivered improved outcomes through other projects or activities		
Summary and Total	General Comments	Total Score

Decision Making Phase 2: Community Asset Transfer Value Assessment Tool



Decision Making Phase 2: Community Asset Transfer Value Assessment Tool



With thanks to Forest Enterprise Scotland