

[DATE]

VS Reference: 34515.00040

Dear Sirs

Asset Transfer Request - Decision Notice
Kirkcudbright Development Trust
Kirkcudbright Information Centre, north of St. Cuthberts Street, Kirkcudbright

This Decision Notice relates to the asset transfer request made by Kirkcudbright Development Trust ("the Community Transfer Body") in respect of the subjects comprising the former Tourist Information Centre at Kirkcudbright ("the Property"), the asset transfer request having been validated on 29 October 2020.

I write to confirm that VisitScotland has decided to **agree** to the request.

The request was evaluated by VisitScotland and the proposals outlined by the Community Transfer Body were considered. Approval was thereafter sought from the Board of VisitScotland to approve the asset transfer request. Such approval was granted on 18 March 2021.

The reasons for the decision are as follows:

- 1 The Property has been declared surplus to operational requirements.
- 2 VisitScotland must agree to the request unless there are reasonable grounds for refusal.
- 3 The Community Transfer Body is currently in occupation of the Property. The Community Transfer Body is a community run and managed registered charity formed to help local groups secure funding to develop new and improved community projects in the local area. The Community Transfer Body offers valuable work experience and volunteering opportunities for vulnerable groups within the local community as well as a modern apprenticeship. The Community Transfer Body intends to consolidate their progress and success made during their trial lease period to provide local management of information provision and create a community focal point.
- 4 The Community Transfer Body have offered a purchase price of £1 in respect of the Property, on the basis that there are outstanding roof repairs with an estimated cost of £27,000. The Community Transfer Body also hope to make further improvements to the Property in due course.

VisitScotland are prepared to transfer ownership of the Property to the Community Transfer Body, but that subject to the following terms and conditions:-

- (One) The sale price shall be ONE POUND (£1) STERLING (excluding VAT, if any).
- (Two) The Property shall be used solely for community use by the Community Transfer Body, as outlined in their constitution and in accordance with the proposals contained in the Community Asset Transfer Request made by the Community Transfer Body. Any change in use will require

the prior written consent of VisitScotland which shall not be unreasonably withheld where the proposed use is consistent with the aims of the Community Transfer Body's constitution. This condition will require to be secured by a standard security to be granted by the Community Transfer Body in favour of VisitScotland.

(Three) VisitScotland would require an overage agreement to be put in place (to be secured by way of a standard security over the title of the Property) to reflect the nominal price of £1. In the event the Community Transfer Body sells the Property within a certain period of time, VisitScotland would require the following in respect of a clawback: (i) 75% of sale profit after costs if the Property is sold within 5 years from the date of transfer of the Property from VisitScotland to the Community Transfer Body and (ii) 50% of sale profit after costs if the Property is sold within 10 years from the date of transfer of the Property from VisitScotland to the Community Transfer Body. The terms of the Overage Agreement and Standard Security will be in a form acceptable to VisitScotland.

(Four) The transfer will be conditional on:

- (a) satisfactory confirmation that any offers of grant/funding for delivery of the project are in place at the date of transfer to the Community Transfer Body;
- (b) the Community Transfer Body confirming that they are satisfied with the terms of the titles to the Property / confirming that any title issues have been resolved to the Community Transfer Body's satisfaction (both parties acting reasonably); and
- (c) any consents including planning and other statutory consents and permissions required to deliver the project being in place at the date of transfer.

If you wish to proceed, you must submit an offer to VisitScotland to acquire ownership of the Property no later than 6 months from date of this Decision Notice. The offer must reflect the terms and conditions stated herein and may include other reasonable terms and conditions as may be necessary or expedient to secure the transfer within a reasonable period of time.

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

FAO Amy Entwistle
Morton Fraser LLP
Quartermile Two
2 Lister Square
Edinburgh
EH3 9GL

The offer must also contain the following:

- 1 The name of the Property for which the offer is made.
- 2 The name of the Community Transfer Body.
- 3 The date of the Decision Notice.
- 4 Confirmation that the Community Transfer Body will enter into the Overage Agreement and grant the Standard Security securing such obligations on the terms outlined above.
- 5 Confirmation that any offers of grant/funding will be in place at the date of transfer.
- 6 Confirmation of the necessary consents and permissions that are in place and those that remain outstanding at the time of the offer (if any).
- 7 Confirmation that the specific terms and conditions under which the Decision Notice was issued are acceptable.

Right to appeal

If you consider that this Decision Notice specifies material terms or conditions which differ to a significant extent from those specified in the asset transfer request, you may appeal to the Scottish Ministers.

Such an appeal must be made in accordance with The Asset Transfer Request (Appeals) (Scotland) Regulations 2016 and must be served on **the Scottish Ministers** within **20 working days** of the date of this notice.

There is also a right of appeal where no contract is concluded within a period of 6 months beginning with the date of the offer.

Guidance on appeals is available within the Scottish Government's publication "Asset Transfer under the Community Empowerment (Scotland) Act 2015 – Guidance for Community Transfer Bodies."

Yours faithfully