EAST AYRSHIRE COUNCIL
CABINET 23 MARCH 2016

TOWN CENTRE VACANT AND DERELICT BUILDINGS GRANT SCHEME

Report by the Depute Chief Executive and Chief Financial Officer
Economy and Skills

PURPOSE

1. To detail and recommend
   - operational guidelines for a proposed new Town Centre Vacant & Derelict Building Grant Scheme;
   - additional proposals for Kilmarnock Conservation Area Regeneration Scheme/Townscape Heritage Initiative (CARS/THI); and
   - to recommend the extension of one full time temporary post to implement the proposals.

BACKGROUND

2. The SOA Annual Performance Report for 2014/15 and associated Improvement Plan was submitted to and approved by Council on the 17 September 2015. The Improvement Plan included various actions to reduce the number of vacant and derelict town centre buildings and specifically to “Develop proposals to introduce a Vacant and Derelict buildings and Emergency Repairs Grant Scheme for town centre buildings” and an “extension to Kilmarnock CARS to provide grant assistance for property owners and community groups to purchase and either refurbish or redevelop vacant buildings within town centres across East Ayrshire.” Also included was completion of the Kilmarnock Townscape Heritage Initiative and the Cumnock CARS, the need to progress with the Galston CARS and resubmit the Dalmellington CARS application.

3. Governance and Scrutiny Committee on 17 December 2015 received a report detailing all dangerous and derelict buildings within East Ayrshire that present a cause for concern and that have been subject to inspection under Planning and Building Standards legislation. The report highlighted a list of more significant cases where issues relating to public safety have been resolved. However, as the report acknowledged many buildings remain in a poor condition and could deteriorate further if no action is taken.

4. Furthermore the Buildings at Risk Register has been in operation in Scotland since 1990 and was a response to a concern at that time of the growing number of listed buildings and buildings in Conservation Areas that were vacant and had fallen into a state of disrepair. The register provides information on properties of architectural or historic merit throughout the country that are considered to be at risk. At present throughout East Ayrshire there are a total
of 60 buildings on the Building at Risk Register. This figure includes 37 listed and 23 unlisted buildings both within and out with town centre boundaries.

5. Finally, the Community Empowerment (Scotland) Act 2015 is a relevant consideration to the establishment of a new Vacant and Derelict Buildings Grant Scheme. Crucially it empowers community organisations by extending the community right to buy, making it simpler for such organisations to take over land and buildings. The policy memorandum that accompanied the Bill states at paragraph 53,

“In many cases, the key to effective community led action may be ownership or control over land and buildings. This can be about protecting or enhancing local facilities, creating new spaces and new uses, generating income for community activity or providing alternative stewardship for heritage and environmental assets...Whether it is retaining the local shop, renovating a derelict site or providing a hub for community activities, control of assets can be a key factor in making a community more attractive to live in, supporting economic regeneration and sustainable development.”

6. Given the circumstances detailed above and the ongoing work by various communities in East Ayrshire in preparing Community Action Plans, many of which identify the need to improve town centre buildings, it has been agreed as part of the 2016/17 budget setting process to establish a Derelict Buildings Grant Scheme. This will enable property owners and community groups to help reduce the number of vacant and derelict buildings within our town centres. The Council also agreed through the budget process that officers bring forward proposals to deal with our own buildings in Dunlop Street.

PROPOSED TOWN CENTRE VACANT AND DERELICT BUILDING GRANT SCHEME

Purpose

7. The purpose of the proposed grant scheme is to provide assistance to property owners or community groups as potential owners of eligible buildings within town centres to

• remove, in the case of a building subject to a Dangerous Buildings Notice, the potential danger to the public; or

• enable (or assist with) the repair and continued use or re-use of listed and unlisted buildings in conservation areas; or

• in the case of unlisted buildings out-with conservation areas to enable or assist with their repair and continued use or re-use or, if justified, their demolition and clearance and to undertake, where appropriate, site landscaping.

The details of the grant scheme including eligibility have been designed to

• complement the East Ayrshire Community Plan (2015-2030)
• integrate with the provisions of the Community Empowerment (Scotland) Act
• support the implementation of Community Action Plans
• provide targeted assistance to local community organisations, property owners and residents.

Eligibility

8. To qualify for grant support the building must
• be located within a town centre, or within a settlement that doesn’t have a defined town centre (as defined by the East Ayrshire Local Development Plan); and
• be subject to a Dangerous Buildings Notice; or
• accommodate uses essential to the functioning of the community (e.g. post office, chemist, medical facilities); or
• be identified on the Buildings at Risk register; or
• be identified in an approved Community Action Plan.

In addition potential applicants must demonstrate
• full ownership of the building, or
• in cases of multiple ownership, that all of the owners or the majority of the owners are in agreement and are willing to meet the non-participating owners share of the costs, excluding any grant approved, or
• that they are an established and properly constituted community group seeking funding to acquire a vacant/derelict town centre building;
• that they have their contribution to the cost of the project; and
• that no other grant scheme is available (e.g. grants through a Conservation Area Regeneration Scheme) or if grant funding is available the application is for match funding.

Process

9. To tackle a vacant and derelict town centre building there are generally three main stages in the process:-

• Project Feasibility
• Project Development
• Project Implementation

It is proposed to provide grant assistance towards each stage of the process.

Project Feasibility Grant

10. Where projects meet the eligibility criteria, and are considered to merit grant assistance, in the first instance, grant will be provided to allow suitably qualified and procured consultants to prepare a feasibility study (and business plan where relevant) to examine potential options for the future of the building. It is intended to procure a framework consultant architect(s) to assist in this process. The brief for each feasibility study must be agreed by the Council.
11. Where the building is a listed building or a building within a conservation area, the option to repair and refurbish must always be considered first prior to any proposals which include demolition. The feasibility study for a listed building or building in a conservation area must be undertaken by a team led by a conservation accredited architect. Partial demolition and re-use will only be considered if it is fully justified from an architectural/historic point of view and conforms to the planning policies of the Council, any relevant conservation area management plan/appraisal and the requirements of Historic Environment Scotland.

**Project Development Grant**

12. Subject to the successful conclusion of a feasibility study, the availability of financial resources within the Town Centre Vacant and Derelict Buildings Grant Scheme, value for money and the priorities of the Council, the next stage would be to offer a development grant. If agreed it would be provided to allow for detailed designs to be prepared, necessary consents to be obtained, to confirm costs, and to identify sources of funding and their availability.

13. The brief for any further development work must be agreed by the Council.

14. In the case of a listed building or a building in a conservation area the development work must be undertaken by a team led by a conservation accredited architect. As for the feasibility stage it is intended to procure a framework consultant architect(s) to assist in this process.

**Project Implementation Grant**

15. Whether or not a project implementation grant will be offered will be dependent on the conclusions arising from the feasibility study and any further development work including an assessment of project viability and sustainability, value for money, funding commitments (including those of partners external to the Council) and Council priorities. In all cases where a project implementation grant is offered it will be subject to the Council’s standard conditions of grant. Specific conditions may be attached to any project implementation grant approval depending on the project, its location (e.g. within a conservation area) and the funding package.

16. Where a project implementation grant is offered a condition will be attached detailing when and how ‘claw back’ provisions will apply. Where repairs are undertaken they must extend the life of the building by a minimum of 10 years. Only reputable contractors with the required experience to undertake the work will be acceptable to the Council.

17. A purchase grant (as part of the project implementation grant or separately) may be provided to properly constituted community groups. The Council will commission a valuation of the property as part of the assessment process.

18. Grant Application forms will be based upon the current Conservation Area Regeneration Scheme application forms (taking on board relevant parts of the Community Grant forms amended as appropriate to enable an assessment to be made of the application). In respect of applications where all of the criteria detailed in the above paragraphs are met it is proposed that they are assessed...
by officers within Planning and Economic Development, Vibrant Communities and the Council’s Legal & Financial Services. The assessment will include in all cases, at the appropriate stage, a financial viability test based on those carried out for the CARS/THI schemes. The views of the local Community Council and elected members would also be sought. Thereafter it is proposed that the application assessment forms be submitted with a recommendation to the Grants Committee for consideration and determination.

Prioritisation Criteria

19. In general the highest priority will be given to projects identified in approved Community Action Plans or in support of community projects that meet the objectives of the Land Reform (Scotland) Act 2003 as amended by the Community Empowerment (Scotland) Act 2015, in support of economic regeneration and sustainable development.

Further prioritisation criteria are listed below in no particular order:-

1. The building has an identified sustainable future use;
2. The proposed development will include funding levered in from external funders;
3. The building is subject of a statutory Dangerous Building Notice, Planning Enforcement Notice, or Listed Building Repair Notice;
4. The building is subject of an adverse structural report in the last 6 months;
5. The building is included in the Building at Risk Register;
6. The building is subject to complaints/enforcement investigations;
7. The building is listed, category “A”, “B”, or “C”; and
8. The building is located in a designated Conservation Area.

Based on the criteria above, approval of any grant will be via the inclusion of that project in the Town Centre Vacant & Derelict Buildings Grant Scheme Action Plan (Priority Action List) by the Grants Committee, following consultation with the Leader of the Council and the Cabinet Member for Economy & Skills.

Level of Grant

20. In terms of the level of grant support available it is proposed, following a positive assessment, that the following amounts are made available

- a 50% grant or a maximum of £10,000 towards a feasibility study
- a 50% grant for project development up to a maximum of £20,000
and, for listed or unlisted buildings in a conservation area

- a 50% grant towards purchase by an established and properly constituted community group (based on a professional valuation) up to a maximum of £50,000
- a 50% grant for repair costs up to a maximum of £100,000

and, for unlisted buildings outside the boundaries of a conservation area

- a 50% grant towards purchase by an established and properly constituted community group (based on a professional valuation) up to a maximum of £50,000
- a 50% grant for repair costs or demolition, clearance and landscaping up to a maximum of £100,000.

**Release of Grant**

21. All offers of grant will be subject to the Council’s standard grant conditions. All grants whether for project feasibility, project development, or project implementation, including building purchase will only be released following receipt by the Council of independent corroboration that the grantees contribution to the project and any external project funding required has been received or confirmed as available and, where appropriate, that all permissions are in place and enforceable.

22. Where a building has a number of owners a separate bank account for the project should be set up and the full owners’ contribution at each stage should be deposited in the account.

23. All repairs/refurbishment would be subject to close scrutiny by a qualified officer employed by the Council. Grant funding will only be released on satisfactory completion of the repair or in accord with a staged payment schedule agreed between the owners and the Council following approval of any completed repair works.

**THE KILMARNOCK CARS/THI - COMPLIMENTARY INITIATIVE**

24. The Heritage Lottery Fund has approved an extension to the Kilmarnock THI to 31 July 2017 to specifically enable the completion of the Kilmarnock Town Centre Business Hub at 30-38 John Finnie Street. This leaves only two buildings within John Finnie Street that are in a very poor state of repair - 2-4 John Finnie Street (the former Ossington Hotel) and 108-114 John Finnie Street (the ‘Balti House’ building). In addition to these two buildings the buildings at 1-3 Dunlop Street and 12 Strand Street (at the rear of 30-38 John Finnie Street) are also vacant & derelict and if not addressed will significantly detract from the Kilmarnock Business Hub. The owners of 108-114 John Finnie Street previously sought grant assistance but were unable to take a project forward under the Kilmarnock CARS/THI. It is considered appropriate to work with the owners on any future proposal.

25. It is therefore proposed to build on the good work of the Kilmarnock CARS/THI by developing a separate but complimentary initiative, solely funded by the
Council, that (1) provides indicative grant assistance to the owners of 2-4 John Finnie Street to enable them to repair the building and, (2) as requested in the Leaders Budget Speech incorporates a building repair scheme for Dunlop Street and Strand Street (which are in Council ownership) into the Council’s Capital Building Programme.

2 - 4 John Finnie Street (the former Ossington Hotel)

26. The property at 2-4 John Finnie Street is a B listed building in an important and very prominent location in Kilmarnock town centre. The building ‘turns’ the corner at the top of John Finnie Street to become 26 West George Street. It is in multiple ownership. However, following a recent meeting with some of the owners, officers of the Council have been informed that one of the owners has purchased another two of the flats and now owns a total of six of the nine flats. At the time of writing this report four of the nine flats are vacant but all of the commercial property on the ground floor is occupied. Due to the change in the ownership position there is now an opportunity for the Council to work with the owners to repair and improve this property. Given its condition and the previously estimated costs that are available (investigatory work was completed as part of the CARS/THI project but could not be advanced at that time) the owners have asked if the Council could provide a specific grant to assist with its repair and to bring it up to a similar standard to those buildings recently repaired under the Kilmarnock CARS/THI.

27. Given the importance of the building to Kilmarnock’s townscape it is recommended that the opportunity to work with the owners is accepted. The building is in a very prominent part of the town centre and its improvement will complement the work completed in the immediate locality.

28. The most effective way in which building repair could be achieved would be to develop an initiative that complements the Kilmarnock CARS/THI scheme by using funds from the Economic Regeneration and Development Fund. However the total cost for the project is currently unknown. Therefore, to help take the project forward it is recommended that Cabinet agree an ‘in principle’ commitment to a grant of up to 50% of the total eligible costs for the external repair of the building subject to a maximum grant of £200,000 but that the actual grant amount should be confirmed following receipt of a detailed condition report and cost estimate prepared by a conservation accredited architect. As within the proposed Town Centre Vacant & Derelict Building Grant Scheme it is also recommended that the professional fees for this project development work should be separately grant eligible and that a 50% grant be made available up to a maximum of £20,000.

1 – 3 Dunlop Street and 12 Strand Street

29. The buildings at 1-3 Dunlop Street and 12 Strand Street are in Council ownership and are in a very poor state of repair, being shored up by a scaffold due to structural issues. Both buildings have been considered by the Project Board for the Business Hub given their proximity to 30-38 John Finnie Street.

30. With regard to 3 Dunlop Street, as it is situated immediately adjacent to the proposed Business Hub, the Project Board are in agreement with the
conclusions of the appointed accredited conservation architect that it should be demolished. This would enable access to be gained to the rear of 30-38 John Finnie Street and allow the Business Hub to be properly serviced.

31. The Project Board are also of the view that the building at 1 Dunlop/12 Strand Street should if at all possible be retained as its loss would significantly affect the appearance of the conservation area. It does however require a new use. To help determine the best way forward, as a first step, it was surveyed by the Council’s framework Conservation Accredited Architects as part of the 30-38 John Finnie Street Business Hub Project and considered by the Heads of Planning and Economic Development and Facilities and Property Management in the context of the Business Hub proposal. It is possible that the Business Hub could be extended to include the building. Alternatively it could be converted to other complementary uses for which there is a demand (e.g. artists’ studios).

32. Whilst a new use for the building has not been determined as requested in the Leaders Budget Speech it is proposed that 1 Dunlop/12 Strand Street should as a priority be upgraded and brought back into sustainable use by the Council particularly given the proposals for 2-4 and 30-38 John Finnie Street detailed above and the Council’s investment in the nearby Opera House building. It is recommended accordingly that this project should be incorporated into the Council’s Capital Building Programme. The previously estimated cost for this development was in the region of £500,000 but given the change in market conditions and the further deterioration of the building, costs may now be up to £1,000,000.

FINANCIAL IMPLICATIONS

33. As part of the Leaders Budget Speech Council agreed on 10 March 2016 an initial grant fund of £500,000 be established initially for the new Vacant & Derelict Building Grant Scheme. At present £120,000 can be funded from the carried forward Restoring Community Programme 2014/15 budget and £130,000 will be earmarked from general Planning & Economic Development savings anticipated to be achieved in 2015/16, (the 2015/16 Restoring Community Programme budget having already been committed), with a further £250,000 from the Economic Regeneration and Development Fund.

34. In relation to the request in the Leaders Budget Speech, it is proposed that we upgrade the Council owned property at 1 Dunlop Street and 12 Strand Street, Kilmarnock. It is recommended that funding of up to £1,000,000 to restore and upgrade the building should be allocated from the Economic Regeneration and Development Fund and included in the Capital Programme. It is further recommended that an in principle commitment to a grant of up to 50% of the total eligible costs for the external repair of 2-4 John Finnie Street be agreed from the Economic Regeneration and Development Fund but that the final grant amount should be confirmed following receipt of a detailed condition report and cost estimate of the works required. It is further recommended that a 50% grant to assist with the fee costs associated with the development work should be made up to a maximum of £200,000. It should be noted that there is no further opportunity to apply to Historic Scotland for CARS funding until 2016/17.
35. There are sufficient funds available within the Restoring Communities Programme Budgets held within Planning and Economic Development to meet the proposed staffing costs indicated in paragraph 41 below.

LEGAL IMPLICATIONS

36. All offers of grant would follow current CARS/THI procedures as previously agreed by Cabinet. Offers of grant would only be issued by the Solicitor to the Council following the appropriate authorisation as detailed in the grant approval process and would be subject to the Council's standard conditions of grant. A standard security where grant exceeds £25,000 will be placed on any building receiving a grant award.

37. Section 20(1) of the Local Government in Scotland Act 2003 gives the Council the power to do anything that,

“…it considers is likely to promote or improve the wellbeing of (a) its area or persons in that area; or (b) either of those

38. Section 20(2) states that,

“The power under subsection (1) above includes power to –

(a) incur expenditure,
(b) give financial assistance to any person,
(c) enter into arrangements or agreements with any person,
(d) co-operate with, or facilitate or co-ordinate the activities of any person,
(e) exercise on behalf of any person any functions of that person, and
(f) provide staff, goods, materials, facilities services or property to any person.”

The provision of the proposed grant scheme would fulfil the legal requirements specified within the Act.

EQUALITY IMPACT ASSESSMENT

39. The Council must discharge its power to advance well-being in a manner which encourages equal opportunities and, in particular, the requirements of the Equality Act 2010. If required an Equality Impact Assessment can be carried out for each individual building project and can be brought to the Access Panel as part of any necessary planning and building warrant application.

COMMUNITY PLANNING/POLICY IMPLICATIONS

40. The proposals detailed above are entirely consistent with the Community Plan. The Vacant & Derelict Building Grant Scheme will assist and complement
various initiatives to regenerate our town centres as will the proposals to carry out complimentary projects in Kilmarnock.

**HUMAN RESOURCES IMPLICATIONS**

41. The Kilmarnock THI Technical Assistant post was initially extended to 30 September 2015 and the remit was widened so as to implement the projects agreed as part of the approved Cumnock CARS extension programme. To support the work currently agreed the THI Technical Assistant’s post has recently been extended to 30 June 2016. It is considered that if Cabinet approve the proposals as detailed above there would be sufficient work to justify extending the THI Technical Assistants post on a full time basis for an initial three year period to 31 March 2019 provided the remit of the post was further widened to include all work associated with the proposed Town Centre Vacant and Derelict Building Grant Scheme. If approved the Technical Assistant’s post would go beyond the current THI grant expiry deadline agreed with the Heritage Lottery Fund. However this would allow the Technical Assistant to complete the required evaluation of the Kilmarnock THI.

**RISK IMPLICATIONS**

42. Financial risks associated with the implementation of the proposed Vacant & Derelict Building Grant Scheme, and the Kilmarnock CARS/THI Complimentary Initiative will be minimised by compliance with the Council’s policy bulletins APB27A through to D.

43. To ensure funding is used appropriately any approved grant funding will only be released after the works to be grant aided have been inspected by an appropriately qualified Council officer and are supported by architect’s certificates and/or submitted invoices.

44. The Council’s role under the proposed Vacant/Derelict Building & Emergency Repairs Grant Scheme, and the Kilmarnock CARS/THI Complementary Initiative would be as grant administrator and the Council would have no liability for works undertaken by a grantee on property out-with the Council’s ownership. Grantees will be required to take their own risk/insurance advice and health & safety advice in relation to each project. The grantee will be required to notify their insurer of the nature of any planned works and should also satisfy themselves that the appointed contractor holds suitable/sufficient insurance cover to protect against predictable/foreseeable risks.

**RECOMMENDATIONS**

45. It is recommended that Cabinet agrees to:-

(i) the establishment of a Town Centre Vacant & Derelict Building Priority Action List and Grant Scheme to be administered by the Planning and Economic Development Service as detailed in paragraphs 7-23 above, and that grants should be prioritised as detailed in paragraph 19 above.

(ii) a total allocation of £500,000 to the Vacant & Derelict Building Grant Scheme, £250,000 from the Economic Regeneration and Development Fund, £120,000 carried forward from the 2014/15 Restoring
Communities Fund budget and £130,000 to be earmarked from general Planning & Economic Development savings anticipated to be achieved in 2015/16,

(iii) the restoration and upgrading of the Council owned property at 1 Dunlop Street and 12 Strand Street and that the building be added to the Council’s Capital Building Programme, using an allocation of up to £1,000,000 from the Economic Regeneration and Development Fund;

(iv) options for the sustainable use of 1 Dunlop Street/12 Strand Street be identified by the Head of Planning and Economic Development and presented to Cabinet for consideration prior to works commencing;

(v) the ‘in principle’ commitment of a 50% grant towards the external repair and refurbishment of 2-4 John Finnie Street subject to a maximum of £200,000 and to a comprehensive review following receipt of a detailed condition report and cost estimate for the building, and to a 50% grant towards professional fees up to a maximum of £20,000 from the Economic Regeneration and Development Fund as detailed in paragraphs 26-28, and 34;

(vi) that the THI Technical Assistant post be extended on a temporary basis to 31 March 2019 to finalise the Cumnock CARS extension and implement both the Vacant & Derelict Building Grant Scheme & the Kilmarnock CARS/THI – Complimentary Initiative;

(vii) to authorise the Council’s Chief Governance and Legal Officer to issue Offers of Grant under the Vacant and Derelict Grant Scheme and for the projects detailed in this report, enter into any necessary Standard Securities and to carry out all other legal work associated therewith; and

(viii) to report back to a future Cabinet to report progress with all of the schemes detailed in this report.

Alex McPhee
Depute Chief Executive and Chief Financial Officer
Economy and Skills
16 March 2016 (KD/CMcK)

LIST OF BACKGROUND PAPERS


Senior officers wishing further information should contact Karl Doroszenko, Development Planning and Regeneration Manager, on 01563 576751.

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