

**Castle Toward – Scrutiny Report**

---

**1.0 EXECUTIVE SUMMARY**

At the Performance Review and Scrutiny meeting held on 26<sup>th</sup> February 2015 it was agreed that a report would be brought forward to support the Committee in ensuring effective oversight and scrutiny of the Council decision making processes in relation to the sale of Castle Toward.

The report outlines the background in relation to the sale of Castle Toward and the process that has been adopted by the Council in progressing decisions in this regard. It sets out in chronological order the reports which have been presented to Council committees to support decision making and addresses key considerations with respect to the statutory duty of Best Value.

The Performance Review and Scrutiny Committee has delegated powers in terms of the Scheme of Administration and its terms of reference include responsibility for scrutiny in relation to commenting on decisions and policies agreed by the Council and other committees and the impact they have on Argyll and Bute as an area, and making recommendations to Council as appropriate.

The Committee is invited to consider the report to provide effective overview and scrutiny of the decision making processes.

**Castle Toward – Scrutiny Report**

---

**2.0 INTRODUCTION**

- 2.1 At the Performance Review and Scrutiny meeting held on 26<sup>th</sup> February 2015 it was agreed that a report would be brought forward to support the Committee in ensuring effective oversight and scrutiny of the Council decision making processes in relation to the sale of Castle Toward.
- 2.2 The report outlines the background in relation to the sale of Castle Toward and the process that has been adopted by the Council in progressing decisions in this regard. It sets out in chronological order the reports which have been presented to Council committees to support decision making and addresses key considerations with respect to the statutory duty of Best Value.

**3.0 RECOMMENDATIONS**

- 3.1 The Committee is invited to consider the report to provide effective overview and scrutiny of the decision making processes.

**4.0 DETAIL**

- 4.1 The Performance Review and Scrutiny Committee has delegated powers in terms of the Scheme of Administration and its terms of reference include responsibility for scrutiny in relation to commenting on decisions and policies agreed by the Council and other committees and the impact they have on Argyll and Bute as an area, and making recommendations to Council as appropriate. In setting out the framework for this report the independent Chair of the PRS Committee wrote to Committee Members asking for their input on key areas for scrutiny and as a consequence the report focuses on:
- Background
  - Valuation
  - Consideration of State Aid
  - Economic Assessment

- Best Value Implications
- Oscillation between Committees.

## **4.2 Background**

- 4.2.1 Castle Toward comprises a substantial Mansion House which is set on the southern tip of the Cowal Peninsula. The property lies within an area of grounds and woodland extending to approximately 57.75 hectares in total and includes the main house, together with two cottages, a Gate Lodge complex, walled gardens and various outbuildings. The Council became owners of the property following the reorganisation of Local Government in April 1996. Latterly the house was occupied by Actual Reality Learning and Leadership Ltd which utilised the property as an outdoor education centre.
- 4.2.2 In November 2008 the Council Executive took a decision to dispose of the property by marketing it on the open market. After this the Council became engaged in discussions with Actual Reality in relation to the resolution of building fabric issues and subsequently the marketing of the property for sale. At the closing date a number of offers had been received, however, in January 2011 the Council received notification under section 37(17) of the Land Reform (Scotland) Act 2003 that an application had been lodged with Scottish Ministers registering a community interest by South Cowal Community Development Company. This prohibited the Council from selling the property while this was under consideration, however, the decision of the Scottish Ministers as notified in September 2011 was to refuse the application and consequently the temporary prohibition on the sale of the property was lifted. This position was notified to the Council Executive and a decision was taken to proceed with the sale on the basis of the offers previously received and with due consideration being given to price, planning, economic benefit and legal considerations.
- 4.2.3 In November 2011 an offer was accepted from Seasons Holidays plc and steps were put in place to conclude a contract in this regard. A decision was also taken by the Executive to continue to support Actual Reality in the provision of outdoor education services with particular regard to the Council's property at Ardentinny. During 2012 the Council progressed the transaction with Seasons Holidays plc with particular regard to conveyancing matters, however, in June 2013, the Council were notified of Seasons decision that it was no longer possible to proceed with the transaction and development as envisaged by them. A decision was then taken to reaffirm the existing delegation to progress the commercial marketing and disposal of the property.
- 4.4.4 In August 2013 the Council was informally advised of interest in a Community by-out of Castle Toward by the South Cowal Community Development Company (SCCDC). This was the subject of a report to Council in September 2013 and it was agreed that the Executive Director - Community Services

implement his previous delegation on 1 December 2013 subject to there being no known impediment at that time.

- 4.4.5 A chronology of subsequent events which form the basis of the scrutiny review by the PRS Committee are attached at Appendix 1.
- 4.4.6 The Council's External Auditors, Audit Scotland, reported on the sale of Castle Toward in their 2012/13 Annual Report and on the follow up in the 2013/14 Report, which was presented to the Audit Committee in December 2014. The Council received an unqualified audit opinion on the financial statements and in relation to Castle Toward, the auditors noted their intention to continue to monitor the sale of this property.

### **4.3 Valuation**

- 4.3.1 On 15th March 2014, SCCDC sent official notification to the Council of its intent to proceed with acquisition of Castle Toward. Thereafter, the Scottish Government appointed the District Valuer to assess the market value and provide an independent valuation of the property as required by section 59 of the Land Reform (Scotland) Act 2003. They returned a value of £1.75 million which closely corresponded to the £1.8 million valuation produced by DM Hall Baird Lumsden dated 19th March 2014 who were appointed by the Council to market the estate.
- 4.3.2 In addition to the foregoing valuations, Savills at the request of SCCDC produced a letter dated 20th May 2014 commenting on the District Valuer's valuation. The letter concluded that in the opinion of Savills the market value of the property was considered to be between £750,000 and £850,000. For the avoidance of doubt, the letter was stated to be informal advice and not a formal valuation.
- 4.3.3 On the 15th May 2014, the Policy and Resources Committee gave consideration to a report advising of the valuation placed on Castle Toward by the District Valuer under the terms of the Land Reform (Scotland) Act 2003 in connection with the community right to buy application by SCCDC. Given the close alignment between the District Valuer's valuation and the Council's valuation, the Policy and Resources Committee agreed not to submit an appeal against the valuation. The Committee also delegated authority to the Executive Directors of Community Services and Customer Services to negotiate a modest discount of the District Valuer's valuation subject to the submission of a robust and sustainable business case by SCCDC.
- 4.3.4 However, in June 2014, SCCDC indicated that they were unable to meet the District Valuer's valuation, even in the event of a successful Land Fund application, and requested that the Council considered applying a discount of £1 million to the valuation made by the District Valuer. SCCDC also appealed to the Lands Tribunal in respect of this valuation.
- 4.3.5 On 21st August 2014, the Policy and Resources Committee considered a report providing advice in relation to the proposed community buy out of Castle

Toward. The Committee agreed to continue a final decision on the request for a £1 million discount until SCCDC:

- Provided evidence that the discount along with other public subsidy to support their business plan did not breach state aid rules or that state aid cover was in place.
- Provided clarity on the outstanding elements of their business plan.

4.3.6 On 27th August 2014 SCCDC withdrew their appeal against the valuation.

4.3.7 On 18th December 2014, the Policy and Resources Committee considered a report which provided advice in relation to the proposed community buyout of Castle Toward and associated estate by SCCDC, following a review of the associated business plan. Further information received from SCCDC and the Scottish Government's State Aid Unit was also tabled for consideration, and Members then submitted an extensive series of questions and gave consideration to the responses from officers. The Committee did not accede to the request from SCCDC to dispose of the subjects at Castle Toward for a discount of £1m and agreed to dispose of the Castle Toward Estate to SCCDC at the full value of £1.75m, with £1m in respect of the purchase price being provided to SCCDC on a commercial loan basis, subject to an initial three year period of deferment of repayments in recognition of their financial position. This loan to be subject to a range of conditions which would require to be negotiated with SCCDC and determined by the officers, specified in the delegation given to the Executive Directors of Community Services and Customer Services and the Head of Strategic Finance to proceed to progress the sale or lease of the Castle Toward Estate on the open market. The Committee also accepted that that if no agreement could be reached and the right to buy extended date of 31st January 2015 expires and the Castle Toward Estate is not sold to SCCDC, that members extend the delegation to the Executive Directors of Community Services and Customer Services, and the Head of Strategic Finance to proceed to progress the sale or lease of the Castle Toward Estate on the open market.

4.3.8 A special meeting of Argyll and Bute Council was requisitioned under Standing Order 1.3.2. on 12<sup>th</sup> February 2015. The Council was asked to reflect on the new information received on the Castle Toward Estate, in particular the RICS Red Book valuation by Savills and the matching revised offer from SCCDC. The Council noted that the valuation by Savills was not a material change of circumstance; in terms of the Community Right To Buy process the District Valuer's valuation provides an independent valuation of the asset. The advice from the Council's external specialist advisers was that the report from Savills did not alter their view as to the open market value of the estate. They also specifically cautioned members against placing any reliance on the valuation by Savills, for the reasons set out in the attached briefing note circulated to members. Appendix 2

#### **4.4 Consideration of State Aid**

4.4.1 State aid is a European Commission term which refers to forms of public assistance, given to undertakings on a discretionary basis, which has the

potential to distort competition and affect trade between Member States of the European Union.

Guidance on what may or may not constitute state aid is set out in the attached table:

Likely to constitute State aid:	Unlikely to be State aid:
<ul style="list-style-type: none"> <li>• Grants to firms for investment, research and development, employee training, etc.</li> <li>• Loans and guarantees below market rates</li> <li>• Free or subsidised consultancy advice</li> <li>• Cash injections to, and writing off losses of, public enterprises</li> <li>• Sale or lease of public land or property at discounted rates</li> <li>• Selectively promoting companies using public funding</li> <li>• Contracts not open to competitive tendering</li> <li>• Discretionary deferral of or exemption from tax, social security and other payments to the State</li> <li>• Legislation to protect or guarantee market share</li> <li>• Funding/cash injections to social enterprises and charitable organisations who are engaged in economic activity</li> <li>• Public funding of privately owned infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Aid to individuals, charities, organisations and public bodies <b>not</b> involved in an economic activity (see definition of economic activity at –  <a href="http://www.gov.scot/Topics/Government/State-Aid/About/state-aid-tests">http://www.gov.scot/Topics/Government/State-Aid/About/state-aid-tests</a>)</li> <li>• Commercial payments for services rendered, where a company is contracted by a public body in accordance with Scottish &amp; EU competitive tendering requirements</li> <li>• General measures, which can apply to all firms throughout the UK, with no discretionary power e.g. the Modern Apprenticeship Programme.</li> </ul> <p><i>Source: Scottish Government Website - State Aid section</i></p>

- 4.4.2 On the 21st August the Policy and Resources Committee considered a report providing advice in relation to the proposed community buy out of Castle Toward. The committee continued a decision on a request for a discount of £1 million until SCCDC provided evidence that the discount along with other public subsidy did not breach state aid rules or that state aid cover was in place.
- 4.4.3 The Executive Director of Community Services met with officials from the Scottish Government’s State Aid unit on 24th October 2014. As a consequence of his intervention and additional information provided as a result the State Aid Unit reduced their assessment of risk of challenge from one of medium to high to one of low to medium and this was duly reported to members.
- 4.4.4 Officers from the Council’s Legal Services were in contact with the Scottish Government’s State Aid Unit in relation to possible State Aid issues that may arise if a discount was to be granted.
- 4.4.5 Officer’s made urgent contact with the State Aid Unit when legal advice was provided by lawyers retained by SCCDC on State Aid issues and prepared an urgent report containing the legal advice provided by SCCDC and the comments of the State Aid unit on the advice provided.

4.4.6 On the 18th December, the Policy and Resources committee considered and noted advice to members from council officers on State Aid Considerations contained in their report in addition to further information received from SCCDC and the State Aid Unit.

#### **4.5 Economic Assessment**

4.5.1 A full economic impact assessment was undertaken in relation to the sale of Castle Toward and this was contained in the report to the Policy and Resources Committee on 18th December 2014 with the conclusion that potential economic social and community benefits could be realised and could be demonstrated to outweigh the value of the discount. However, concern was expressed in relation to the financial viability of the SCCDC business plan which appeared to rest solely on Public Sector grant funding support, particularly for the first 3 years of the development. The overriding view of the Economic Development Department was therefore that the business case presented serious risk and uncertainty and the rationale for this was outlined in the report. This report was exempt to the Press and Public but was available to all Elected Members for scrutiny.

#### **4.6 Best Value**

4.6.1 The Local Government (Scotland) Act 2003 introduced the statutory duty of Best Value in local government which sets out the values and principles considered to be essential in delivering effective, high-quality public services. These include achievement of the highest standards of governance and financial stewardship, and value for money in how Councils use their resources and provide their services. The Chair of the Accounts Commission stated in the recently published Overview of Local Government in Scotland 2015 [http://www.audit-scotland.gov.uk/docs/local/2015/nr\\_150305\\_local\\_government\\_overview.pdf](http://www.audit-scotland.gov.uk/docs/local/2015/nr_150305_local_government_overview.pdf) that Best Value is as relevant and vital today as it was when it was introduced and that Councils that place Best Value at the centre of all they do are best placed to deal with the pressures in 2015 and beyond. Consideration of all the issues in relation to Castle Toward therefore needs to incorporate a Best Value approach in ensuring effective overview and scrutiny. The suite of information provided to Elected Members would have provided sufficient information to allow Members to take informed decisions in this regard.

#### **4.7 Oscillation between Policy & Resources Committee and Council**

4.7.1 Since 2014 key decisions in relation to the sale of Castle Toward were mainly taken by the Policy and Resources (P&R) Committee. Revised political management arrangements for Argyll and Bute Council were agreed at Council in January 2014 following the recommendations of a short life working group. These established the P&R Committee with a clear remit in relation to Financial Resources and Corporate Asset Management amongst other areas. A key delegation under corporate asset management is "to consider the acquisition and disposal of the Council's assets, in so far as not delegated to area committees." Prior to this date decisions relating to the sale of Castle Toward

were agreed by either Council or the former Executive Committee of the Council and delegated to the Director of Corporate Services and/or Director of Community Services to take forward. In particular the Council specifically agreed on 26<sup>th</sup> June 2014 to delegate final determination of the matter to the Policy and Resources Committee

4.7.2 Reports to the Policy & Resources Committee were as follows:

- 15 May 2014 Item 10 – restricted by virtue of paragraph 9
- 21 August 2014 – item 23 – restricted by virtue of paragraphs 8 & 9
- 27 November 2014 – item 7 - restricted by virtue of paragraphs 8 & 9 (Special P&R Committee)
- 18 December 2014 – item 18 - restricted by virtue of paragraphs 6, 8 & 9 on agenda but Committee agreed to take item in public session at the meeting.

4.7.3 In accordance with usual practice relating to property disposals the reports were classified as exempt under Schedule 7A of the Local Government (Scotland) Act 1973 in terms of the following paragraphs:

Paragraph 6 – Information relating to the financial or business affairs of any particular person (other than the authority)

Paragraph 8 – The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services

Paragraph 9 – Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or supply of goods or services

The role of officers is to advise on the legislative guidelines in this regard however it is always open to Members to decide to consider a report in private or public session and this right was exercised on a number of occasions.

4.7.4 Following the December P&R Committee meeting the matter was dealt with at Council on 22nd January 2015, in response to an Notice of Motion under Standing 14, asking for the item to be considered as a matter of urgency in light of 3 material changes and requested the Council to extend the right to buy until Friday 27 February, in order to allow further negotiations with SCCDC to see if a sale can be concluded. The Provost advised that whilst he had some concerns about the competence of the Motion, in the interest of fairness however, he ruled that the Motion could be considered as a matter of urgency by reason of the need for a decision by the Council. The matter was taken in public session and the extract of the minute is attached at Appendix 3.

4.7.5 The matter was again considered by Council on 12<sup>th</sup> February 2015 when in terms of Standing Order 1.3.2, a Special Meeting of Argyll and Bute Council which had been called for by sufficient Members of the Council was



requisitioned. The Council were asked to reflect on the new information received on the Castle Toward Estate, in particular the RICS Red Book valuation by Savills and the matching revised offer from South Cowal Community Development Company and to reflect on the ongoing costs of £22k per month to keep the property empty. The Council were also asked to consider selling the property to SCCDC for the new valuation and offer, i.e. £850k. The item was taken in public session and the full reports can be accessed at -

<http://www.argyll-bute.gov.uk/moderngov/ieListDocuments.aspx?CId=257&MId=6537&Ver=4>

- 4.7.6 The Minutes of the P&R Committee are included on the Council Agenda for homologation as appropriate and consequently Council would have been aware of the progress of issues in relation to Castle Toward and additionally an update was provided directly to Council in June 2014 requesting it to note the position on the Proposed Community Right to Buy.
- 4.7.7 The oscillation between the P&R Committee and the Council was therefore in accordance with the Council's constitution and associated standing orders and it is noted that consideration of the matter at Council after their decision in June 2014 was in the first instance in response to the lodging of an urgent motion by Elected Members and in the second instance in response to a request for a requisitioned meeting by a group of Elected Members.

## **5.0 CONCLUSION**

- 5.1 Members of the PRS Committee are requested to note the chronology in respect of decisions relating to Castle Toward, and to consider the details of the differences in valuation price, the complications of the state aid considerations, the economic impact assessment and the implications for ensuring Best Value. The Committee is also asked to note the reasons for the oscillation between the Policy and Resources Committee and Council in respect of decision making and that this was as a consequence of Elected Members exercising their democratic right in accordance with the Council Constitution.

The Performance Review and Scrutiny Committee has delegated powers in terms of the Scheme of Administration and its terms of reference include responsibility for scrutiny in relation to commenting on decisions and policies agreed by the Council and other committees and the impact they have on Argyll and Bute as an area, and making recommendations to Council as appropriate. Members are therefore invited to consider the report to provide effective overview and scrutiny of the decision making processes.

## **6.0 IMPLICATIONS**

- 6.1 Policy - potential for impact on Asset Management Strategy and financial policies.
- 6.2 Financial - potential impact on financial projections
- 6.3 Legal - potential impact on statutory duty of Best Value
- 6.4 HR - none

6.5 Equalities - none

6.6 Risk - Castle Toward identified as Audit Risk in 2013/14 Annual Report

6.7 Customer Service-none

**Douglas Hendry**  
**Executive Director- Customer Services**  
**18<sup>th</sup> May 2015**

**For further information contact:** Charles Reppke, Head of Governance and Law.

#### **APPENDICES**

Appendix 1 Chronology of Events

Appendix 2 Briefing Note to Elected Members on Valuation

Appendix 3 Extract of Minute: Argyll and Bute Council -, 22 January 2015

#### **HYPERLINKS**

(printed copies can be made available on request to Committee Services)

<http://www.gov.scot/Topics/Government/State-Aid/About/state-aid-tests>

[http://www.audit-scotland.gov.uk/docs/local/2015/nr\\_150305\\_local\\_government\\_overview.pdf](http://www.audit-scotland.gov.uk/docs/local/2015/nr_150305_local_government_overview.pdf)

<http://www.argyll-bute.gov.uk/moderngov/ieListDocuments.aspx?CId=257&MId=6537&Ver=4>

**Chronology of events relating to proposed sale of Castle Toward under Community right to buy provisions: January 2014 - February 2015**

**23<sup>rd</sup> January 2014** – South Cowal Community Development Company (SCCDC) submitted Community Right to Buy to Scottish Ministers which was approved on 23<sup>rd</sup> January 2014. Once such an application is received, the property owner cannot take any steps to dispose of the property to any other party until the right to buy is extinguished or implemented. Following intimation by the Council on 7<sup>th</sup> February of its intent to sell Castle Toward, SCCDC were officially notified by the Scottish Ministers and from the date of official notification, 13<sup>th</sup> February, SCCDC had thirty days to confirm to the Scottish Ministers of its intent to proceed with the Community Right to Buy process.

**15<sup>th</sup> March 2014** – SCCDC sent official notification of its intent to proceed with acquisition. Thereafter the Scottish Government appointed the District valuer to assess the market value of the property. They returned a value of £1.75 million which closely corresponded to the £1.8 million valuation produced by DM Hall Baird Lumsden who were appointed by the Council to market the estate.

**15<sup>th</sup> May 2014** – Given the close alignment between the Council's valuation and the District Valuer's valuation, the Policy and Resources Committee agreed not to submit an appeal against the valuation. The committee further agreed to delegate to the Executive Directors of Community Services and Customer Services to negotiate the disposal offering a modest discount on the District Valuer's valuation subject to the submission of a robust and sustainable business case by SCCDC which detailed the benefits to the community that could justify any reduction in price. However, in June 2014 SCCDC indicated that they were unable to meet this valuation, even in the event of a successful Land Fund application, and requested that the Council considered applying a discount of £1 million to the valuation made by the District Valuer. SCCDC also appealed to the Lands Tribunal in respect of this valuation.

**21<sup>st</sup> August 2014** – The Policy and Resources Committee considered this matter and agreed to continue a final decision on the request for a discount of £1million until SCCDC:

- Provided evidence that the discount along with other public subsidy to support their business plan does not breach state aid rules or that state aid cover is in place.
- Provided clarity on the outstanding elements of their business plan

The Committee agreed to extend the Right to Buy deadline for the conclusion of the purchase of the Castle Toward estate until 31<sup>st</sup> December 2014 to allow the above actions to be completed.

The Committee also: noted that appeal made by SCCDC in relation to the District Valuer's valuation to the Lands Tribunal; noted the content of the report to members; noted the key findings arising from the Council's Economic Development service review of the SCCDC business plan; noted the findings of the parallel assessment carried out by Highland and Islands Enterprise (HIE); noted the consideration of

alternative acquisition funding sources.

**27<sup>th</sup> August 2014** – SCCDC withdrew their appeal against the valuation.

**22<sup>nd</sup> October 2014** – Scottish Ministers give SCCDC consent to proceed with the buyout.

**27<sup>th</sup> November 2014** – A special meeting of the Policy and Resources Committee considered the matter. No decision was taken at the meeting.

**18<sup>th</sup> December 2014** – The Policy and Resources Committee agreed the following motion:

The Committee

1. Notes the detail and advice in the report to members regarding the Disposal of Land By Local Authorities (Scotland) Regulations 2010.
2. Notes the details and advice to members on State Aid Considerations contained in the report, and further information received from SCCDC, and the State Aid unit provided at the meeting.
3. Notes the detail and advice contained in the report to members from the Economic Development service with regard to the impact, viability and achievability of the revised SCCDC Business plan.
4. Notes the information contained in the report to members regarding Highlands and Islands Enterprise's position.
5. Notes the comments to members from the Council's Section 95 Officer.
6. Notes the detail in the report supplied by SCCDC in response to issues raised by members on 21<sup>st</sup> August 2014 and to further responses to questions/issues raised with them by Officers in November 2014.
7. Does not accede to the request from SCCDC to dispose of the subjects at Castle Toward for a discount of £1 million.
8. Agrees to dispose of the Castle Toward Estate to SCCDC at the full value of £1.75 million with £1million in respect of the purchase price being provided to SCCDC on a commercial loan basis subject to an initial three year period of deferment of repayments in recognition of their financial position.
9. In recognitions of all the aforementioned details, include within the said delegation to officers authority to extend the Right to Buy period with SCCDC until 31<sup>st</sup> January 2014 or such later date as may be determined by the officers.

The right to buy period was extended until 31<sup>st</sup> January 2015.

**22<sup>nd</sup> January 2015** – A full council meeting voted to reject an urgent motion requesting that the Council extend the right to buy until Friday 27 February 2015 in order to allow further negotiations with SCCDC to see if a sale could be concluded.

The Council voted to endorse an amendment which endorsed and reaffirmed the decisions taken by the Policy and Resources Committee of 18<sup>th</sup> December 2014 and to take no further action with regard to the proposal contained in the urgent motion.

**12<sup>th</sup> February 2015** - In terms of Standing Order 1.3.2, a Special Meeting of Argyll and Bute Council which had been called for by sufficient Members of the Council was requisitioned. The Council were asked to reflect on the new information received on the Castle Toward Estate, in particular the RICS Red Book valuation by Savills and the matching revised offer from South Cowal Community Development Company and to reflect on the ongoing costs of £22k per month to keep the property empty. The Council were also asked to consider selling the property to SCCDC for the new valuation and offer, i.e. £850k.

Having heard from Council Officers in respect of the matter, the Provost ruled that the amendment proposed by Councillor Breslin was not competent and would therefore not be considered by the Council.

The Council took the following decision:

The Council notes:

1. That the valuation by Savills is not a material change of circumstance; in terms of the Community Right To Buy process the District Valuer's valuation provides an independent valuation of the asset. The advice from the Council's external specialist advisers is that the report from Savills does not alter their view as to the open market value of the estate. They also specifically caution members against placing any reliance on the valuation by Savills, for the reasons set out in the briefing note circulated. This means that the principles of Best Value which the Council should adhere to and the State Aid issues remain exactly as they were on 18 December 2014 when a substantive decision was first made on this matter by the Policy and Resources Committee.
2. The extension granted by the Council to 13 February 2015 to allow officers to negotiate with SCCDC has to date resulted in no material change of position by SCCDC. In particular they appear to have been unable to develop their business plan to allow them to fund the purchase price set by the District Valuer and as accepted by the Council.
3. That the Executive Director of Customer Services received a request on 4 February 2015 for a Special Council meeting to consider an offer from South Cowal Community Development Company (SCCDC) for £850,000 but that a formal offer was not received by officers of the Council until this morning – 12 February 2015.

The Council therefore agrees:

1. To note with regret the ongoing attempts to undermine the democratic decisions of the Council, and the attempts to denigrate officers in the execution of their duties.
2. To note the efforts made by the current administration to secure Best Value in the disposal of Council assets, and in that regard also note the information briefing circulated which provides advice from external consultants on the Savills valuation report commissioned by SCCDC.
3. To yet again endorse the decision taken by the Policy and Resources Committee on December 18 and affirmed by the Council on 22 January and to;  
d) Withdraw the delegation to officers in regard to any further negotiations with SCCDC; e) Withdraw the delegation for any further extension in the Right To Buy deadline; and f) Reaffirm the delegation to the Executive Directors of

Community and Customer Services to market the property.

4. To instruct the Executive Director of Customer Services, in his role as Monitoring Officer, to review the behaviour of elected members in relation to this whole matter and, having regard to the advice contained in the Best Value Audit, take appropriate action as deemed necessary.

**BRIEFING NOTE BY EXECUTIVE DIRECTOR OF CUSTOMER SERVICES**

**CASTLE TOWARD PROPERTY VALUATIONS**

Members have requested advice and information with regard to the significant discrepancy between the valuations of the Castle Toward property carried out by the Council appointed Baird Lumsden and the Scottish Government appointed District Valuer on the one hand, and by Savills who had been appointed by South Cowal Development Company on the other. The Savills valuation is of an amount less than half of each of the other two valuations. The three valuations are as follows:

- Valuation by Donald Yellowley MRICS, Director of Baird Lumsden, The Mill, Station Road, Bridge of Allan, Stirling, FK9 4JS, dated 19<sup>th</sup> March 2014, instructed by Argyll and Bute Council and based on an inspection of the property carried out on 19 March 2014. The property was valued at **£1.8M** and the valuation date was described as 7 February 2014. The Valuation Report forms Appendix 1 to this Note.
- Valuation by David Herriot BSc(Hons) MRICS, Senior Surveyor, DVS (District Valuer Service), Glasgow, dated 29<sup>th</sup> April 2014 instructed by Ian Heron, The Scottish Government, based on an inspection of the property carried out on 10 April 2014, accompanied by representatives of Council and SCCDC. The property was valued at **£1.75M** with the valuation date being described as 7 February 2014. The Valuation Report forms Appendix 2 to this Note. A representative of the Scottish Government confirmed by email on 10 February 2015 that the Scottish Government are content for this Report to be made public.
- Valuation by Sian Robertson MRICS, Associate reviewed by Hugo Struthers, MRICS, Director, both of Savills, 163 West George Street, Glasgow dated 28 January 2015 as instructed by South Cowal Community Development Company, based on inspections of the property by Sian Robertson on 25 February 2014 and 9 April 2014. The property was valued at **£850,000** with valuation date being described as 23 January 2015. Attention is drawn to paragraph 14 of Schedule 1 to the Valuation report in which it is stated "As stated above, we accept responsibility for our Report only to the Addressees and no third party may rely on our Report". The Valuation Report forms Appendix 3 to this Note. SCCDC have indicated that this report is a confidential document and "cannot be put into the public domain".

In addition to the foregoing valuations, Ms Robertson of Savills produced a letter dated 20 May 2014 commenting on the District Valuer's valuation at the request of SCDDC. As well as commenting as aforesaid, the letter concluded by stating that in the opinion of the Ms Robertson stating that the market value of the property was considered to be between **£750,000** and **£850,000**. The letter was stated to be informal advice and not a formal valuation. A copy of the letter dated 20 May 2014 forms Appendix 4 to this Note. It is to be assumed that this letter is also to be regarded as a private document and "cannot be put in the public domain".

It will be noted that the difference between the valuations carried out by Baird Lumsden on behalf of the Council and the District Valuer on behalf of the Scottish Government is **£50,000**, but the difference between the lower of the Baird Lumsden valuation and the District Valuer's valuation, being the

District Valuer's valuation of **£1.75M**, and the valuation provided by Savills as instructed by SCCDC is **£900,000**.

Enquiries were made of the District Valuer as to whether he would be in a position to provide comment on the Savills valuation and indicate whether in his view he considers his original valuation to be excessive. The Council was advised that the District Valuer could accept further instructions in this matter only if he received a combined approach by The Scottish Government, by whom he was originally instructed, along with the Council and SCCDC.

Mr Yellowley of Baird Lumsden was provided with a copy of the Savills valuation and was invited by the Council to provide his comments. His comments on the Savills valuation are contained within the letter from Mr Yellowley dated 10 February 2015, a copy of which forms Appendix 5 hereto.

In summary there have been three valuations and these are as follows:

By Donald Yellowley of Baird Lumsden on behalf of the Council	<b>£1,800,000</b>
By David Herriot, District Valuer's Service on behalf of Scottish Government	<b>£1,750,000</b>
By Sian Robertson of Savills on behalf of SCCDC	<b>£850,000</b>

Douglas Hendry  
Executive Director – Customer Services

11 February 2015

(The appendices referred to in this briefing note can be accessed at –

<http://www.argyll-bute.gov.uk/moderngov/ieListDocuments.aspx?CId=257&MId=6537&Ver=4>

at Item 3 under Castle Toward Property evaluations)



**Extract of Minute - Argyll and Bute Council - Thursday, 22 January 2015 11:00 am**

**16. NOTICE OF MOTION UNDER STANDING ORDER 14**

**Minutes:**

In terms of Standing Order 14 the following Notice of Motion had been received for consideration as a matter of urgency at this meeting.

**Motion**

The 3 material changes are:

1. South Cowal Community Development Company notified officers formally on 20 January 2015 that they are unable to take up the offer of a loan of £1m for both financial and legal reasons.
2. SCCDC has also notified officers that they intend to explore other options as a result of having to reject the offer of a loan. Time is required to explore these options.
3. SCCDC has asked Savilles to carry out a formal RICS red book valuation and this will be available on or around Monday 26 January 2015. The expectation is that this valuation will be less than £1m and may be less than the 750k already offered by SCCDC.

In light of these 3 material changes, this motion requests the Council to extend the right to buy until Friday 27 February in order to allow further negotiations with SCCDC to see if a sale can be concluded.

Moved by Councillor Breslin, seconded by Councillor Dance.

**Amendment**

To endorse and reaffirm the decisions taken by the Policy and Resources Committee of 18 December 2014 and to take no further action with regard to the proposal contained in the urgent motion.

Moved by Councillor Walsh, seconded by Councillor E Morton.

The requisite number of Members required the vote to be taken by calling the roll and Members voted as follows:-

**Motion**

Councillor Armour  
Councillor Blair  
Councillor Breslin  
Councillor Dance  
Councillor Horn  
Councillor MacDonald  
Councillor N MacIntyre  
Councillor R E Macintyre  
Councillor MacLean

**Amendment**

Councillor Colville  
Councillor Currie  
Councillor Freeman  
Councillor Kelly  
Councillor Kinniburgh  
Councillor McAlpine  
Councillor McCuish  
Councillor MacDougall  
Councillor R G MacIntyre

Councillor Marshall  
Councillor Robb  
Councillor Strong  
Councillor Taylor  
Councillor Trail

Councillor MacMillan  
Councillor McNaughton  
Councillor McQueen  
Councillor A Morton  
Councillor E Morton  
Councillor Mulvaney  
Councillor Philand  
Councillor Robertson  
Councillor Scoullar  
Councillor Walsh

**Decision**

The Amendment was carried by 19 votes to 14 and the Council resolved accordingly.