

**South Ayrshire Council**

**Joint Report by Depute Chief Executive and Director of Housing,  
Operations and Development and Chief Governance Officer  
to Cabinet  
of 26 August 2025**

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**Subject: Barr Community Centre - Community Asset Transfer  
and Public Trust Resolution**

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**1. Purpose**

- 1.1 The purpose of this report is to update Cabinet regarding the title issue affecting the Barr Community Centre and to request Cabinet to pass a resolution to modify the public trust purposes, to allow the community asset transfer to proceed.

**2. Recommendation**

**2.1 It is recommended that the Cabinet:**

- 2.1.1 notes that there is a Public Trust affecting Barr Community Centre and the Council is the only known Trustee;
- 2.1.2 agrees that the Public Trust will be known as the Carnegie Morton Trust;
- 2.1.3 passes a resolution in terms of [Appendix 1](#) to this report modifying the trust purposes to reflect modern-day conditions and aligning the Trust purposes more closely with the purposes of the Barr Community SCIO;
- 2.1.4 delegates authority to the Chief Governance Officer to advertise the passing of the resolution, comment on any objections and submit the documentation to the Lord Advocate;
- 2.1.5 extends the deadline by which a formal offer requires to be submitted by Barr Community SCIO to purchase the Barr Community Centre under Part 5 of the Community Empowerment (Scotland) Act 2015 to 1 April 2026; and
- 2.1.6 notes that annual reports will be brought to Cabinet in relation to the Carnegie Morton Trust.

### **3. Background**

- 3.1 At its meeting on 25 September 2024, the Cabinet decided to approve an asset transfer request by Barr Community SCIO for the transfer of ownership of Barr Community Centre and grounds, Stinchar Road, Barr Girvan, KA26 9TW, conditional on the resolution of a title issue affecting the property. The title to the community centre and grounds also covers an area of land lying to the south of Stinchar Road, between the road and the Water of Gregg. There had been uncertainty regarding whether the title was subject to a Public Trust. Further investigations have now been carried out and the Council has had the benefit of external expert legal advice. The conclusion is that there is a dormant Public Trust affecting the title.
- 3.2 Research indicates that the construction of the building early in the twentieth century was funded by two benefactors, a Mr William Morton, and the Carnegie Trust. The building was known at one time as the Carnegie Morton Institute. In 1973, Girvan District Council sold a strip of land from the title to Ayr County Council for a public convenience, and the plan attached to that deed describes the adjacent hall and bowling green as property belonging to the Trustees of the Carnegie Morton Trust. Similarly, the Valuation Roll indicates that the community centre is owned by the Trustees of the Carnegie Morton Trust, although the Assessors hold no further information regarding the Trust or the Trustees. From the evidence available, it therefore appears that the Trust was known as the Carnegie Morton Trust. Investigations have been carried out locally into whether there are any other surviving trustees, and no other trustees have been identified. The Council is therefore believed to be the only trustee.
- 3.3 The Trust purposes are specified in terms of a Court decree dating from 1920 and are widely framed. They refer to the property being held 'for the benefit of the inhabitants of the Parish of Barr' and for 'maintaining a Library for the benefit of the inhabitants of the Parish of Barr'. To enable the community asset transfer to proceed, the Trust purposes will require to be modified, both to reflect modern conditions and to align more closely with the purposes of the Barr Community SCIO. This can be achieved without the need for court authority as the Trust has no annual income. The Cabinet has delegated authority under the Council's Scheme of Delegation (Delegations to the Cabinet), paragraph 2.1.11, to determine arrangements for the administration of Trusts for which the Council is responsible following consultation with local Elected Members.
- 3.4 After the resolution has been made, public notice will require to be given in a local newspaper, and anyone with an interest in the purposes of the Trust may object in writing. The documentation will then be submitted to the Lord Advocate, who will direct whether the modification of the Trust purposes can take effect, having considered any objections. If the Lord Advocate grants approval, the modification of the Trust purposes will take effect 2 months after the date on which the public notice is first published. The community asset transfer may proceed thereafter.

### **4. Proposals**

- 4.1 It is proposed that the Council, as sole known Trustee, will modify the terms of the Public Trust to reflect modern conditions and to align more closely with the purposes of the Barr Community SCIO, to enable the community asset transfer to proceed. A formal resolution to modify the Trust Purposes as outlined in paragraphs 4.2 and 4.3 below is detailed in [Appendix 1](#).

- 4.2 The beneficiaries of the Public Trust are described in the 1920 Court decree as the inhabitants of the Parish of Barr. Barr Community SCIO agreed to amend the definition of 'community' in their constitution to include people living or working in the former Barr Parish area, as well as in the Barr community council area. This will ensure that the beneficiaries as defined in the Public Trust will be able to benefit fully from Barr Community Centre following on the community asset transfer. The changes to the constitution were agreed by the Barr Community SCIO at its Annual General Meeting on 30 April 2025 and approved by the Scottish Charity Regulator, OSCR, on 8 May 2025. It is proposed that the Trust purposes will be modified to reflect this.
- 4.3 The current Trust purposes also include reference to provision of a library; however, it is unclear to what extent a library was ever provided and the evidence suggests that in substance the asset has been used as a community centre, bowling green and outdoor amenity area for a considerable time. The requirement for library provision in the area is being adequately met through the Council's mobile library service, Girvan public library (8.5 miles away) and Library Service resources available on-line. The internet provides a wide range of free, accessible e-resources, providing reading and educational opportunities for those with free library membership. The Council's Library Service also engages through appropriate and approved social media platforms, including the Council website. In the circumstances, the requirement for the Trust to provide a library is now considered redundant. It is therefore proposed that the requirement for a library is removed from the Trust purposes.
- 4.4 In terms of the Decision Notice issued by the Council on 2 October 2024, the Barr Community SCIO have until 1 October 2025 to submit a formal offer to purchase the property. It is considered appropriate to extend this period by 6 months, to 1 April 2026, to allow the process for modification of the Trust purposes to be completed.
- 4.5 It is the intention for an annual report on the Carnegie Morton Trust to be brought to Cabinet going forward.

## **5. Legal and Procurement Implications**

- 5.1 The recommendations in this report are consistent with legal requirements.
- 5.2 There are no procurement implications for the Council arising from this report. All project procurement will be undertaken by the Barr Community SCIO.

## **6. Financial Implications**

- 6.1 The cost of preparing and submitting the application to the Office of the Lord Advocate to modify the Trust is likely to be the cost of advertising in the local newspaper, which is likely to be in the region of £2,000 and will be met from within current service budgets.
- 6.2 Completing the Community Asset Transfer to Barr Community SCIO will remove the Council's liability for the property's annual running costs which amounted to £75,784 in 2023/24. It will also remove the Council's liability for the cost of future repairs.

- 6.3 The Cabinet meeting of 24 September 2024 approved a one-off grant of £118,826 from the Advancing Community Assets Fund (ACAF) to Barr Community SCIO. The ACAF had (at that time) £0.500m of uncommitted funds available to meet the request.
- 6.4 The Cabinet meeting of 24 September 2024 agreed to disposal of the asset, via the Community Asset Transfer process, at less than best consideration. Barr Community SCIO has offered to purchase the asset for £1 (one pound) against an independent valuation of £100,000. A Best Value Assessment found the disposal at less than best consideration was reasonable due to the proposal's contribution to Economic Development, Regeneration, Social and Environmental Wellbeing.

## **7. Human Resources Implications**

- 7.1 The part-time Caretaker's post for Barr Community Centre is offered by the Council as a temporary contract. If these proposals are approved and the transfer goes ahead, the temporary contract will not be renewed. There are no TUPE implications.

## **8. Risk**

### **8.1 *Risk Implications of Adopting the Recommendations***

8.1.1 There is a risk of some opposition from the community, to the proposed modification of the Trust. However, a previous advert placed in local press asking for people to come forward with information on the trust received no responses. Moreover, a public notice published to advertise the proposed Community Asset Transfer of the property received 119 responses with 93 respondents in favour of the transfer (24 responses were opposed and 2 classified as neutral). This indicates, therefore, that most people in the community are likely to support the modification of the trust to enable the transfer to take place.

8.1.2 There is a risk that the Lord Advocate could direct the Council not to proceed with the modification of the Trust, whether in consideration of any objections or otherwise. However, as mentioned in paragraph 8.1.1 above, the response to the previous consultation exercise indicates the community overall is in favour of the proposed disposal and is likely to be supportive of the proposed modification of the Trust. The constitution of the Barr Community SCIO has been modified so that the 'community' includes all those living or working in the area of the former Barr Parish, as well as those living or working in the community council area, to ensure that all those intended to be benefitted by the Trust will continue to have full benefit of the property.

### **8.2 *Risk Implications of Rejecting the Recommendations***

8.2.1 The Public Trust qualifies the Council's title and there is a risk that a member of the public could challenge a transfer of title which is absolute and does not recognise the Public Trust. Modifying the Trust purposes to align with the Barr Community SCIO's purposes would reduce the prospects of a successful challenge.

**9. Integrated Impact Assessment (incorporating Equalities)**

9.1 The proposals in this report do not require to be assessed through an Integrated Impact Assessment. The proposals will not result in any significant change to service delivery or provision beyond what was proposed in the September 2024 Cabinet Paper (see Background Papers), for which an EQIA was prepared.

**10. Sustainable Development Implications**

10.1 **Considering Strategic Environmental Assessment (SEA)** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

**11. Options Appraisal**

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

**12. Link to Council Plan**

12.1 The matters referred to in this report contribute to Priority 3: Civic and Community Pride, of the Council Plan 2023-28, by providing greater opportunity for Barr residents to influence and contribute to what happens in their community.

**13. Link to Shaping Our Future Council** Yes  No

13.1 The matters referred to in this report contribute to the Council’s transformation priority area: our assets; our delivery model and will deliver cashable benefits .

**14. Results of Consultation**

14.1 Consultation has taken place with Councillor Martin Kilbride, Portfolio Holder for Buildings, Housing and Environment and the contents of this report reflect any feedback provided.

**15. Next Steps for Decision Tracking Purposes**

15.1 If the recommendations above are approved by Members, the Director of Housing, Operations and Development will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the ‘Council and Cabinet Decision Log’ at each of its meetings until such time as the decision is fully implemented:

<b><i>Implementation</i></b>	<b><i>Due date</i></b>	<b><i>Managed by</i></b>
Advertise the making of the resolution to modify the Trust purposes, respond to objections and submit documentation to the Lord Advocate.	25 November 2025	Chief Governance Officer

<b><i>Implementation</i></b>	<b><i>Due date</i></b>	<b><i>Managed by</i></b>
Conclude the sale in the event of a formal offer being received in accordance with the recommendations of this report.	1 December 2026	Chief Governance Officer/ Service Lead – Asset Management and Community Asset Transfer

**Background Papers**    **Report to Cabinet of 25 September 2024 – [Barr Community Centre Community Asset Transfer under Part 5 of the Community Empowerment \(Scotland\) Act 2015 and Application for Funding from the Advancing Community Assets Fund](#)**

[Supplementary Information 1](#)

[Supplementary Information 2](#)

[Supplementary Information 3](#)

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**Date: 19 August 2025**

**Resolution by the Trustees of the Carnegie Morton Trust- Barr Village Hall and Community Centre, Stinchar Road, Barr KA26 9TW.**

1. At the meeting of South Ayrshire Council's Cabinet, held at County Buildings, Wellington Square, Ayr KA7 1DR on 26 August 2025, a joint report by the Council's Director of Housing, Operations and Development and the Chief Governance Officer was submitted, informing the Cabinet of the Carnegie Morton Trust, a Public Trust affecting the Barr Community Centre, Stinchar Road, Barr KA26 9TW, South Ayrshire, which was recognised by the Court of Session in 1920 (the "**Trust**").
2. The Reverend John Angus and benefactors, which the limited evidence suggests were a Mr William Morton and the Carnegie Trust, funded the creation of a building known at one time as the Carnegie Morton Institute, for public beneficial purposes, including the provision of a library. The Reverend was the sole trustee and by 1932 his executor and court appointed trustee transferred the trust title for the asset, with the consent of the then Parish Council of the Parish of Barr, to Girvan Area Number One District Council of the County Council of Ayr as the statutory successors to the Parish Council. The present South Ayrshire Council is the statutory successor to the District Council.
3. The 1932 Disposition by the Reverend John Angus transferred the property to the District Council "in trust for the benefit of the inhabitants of the Parish of Barr". The Trust purposes can be derived from the decision of the Court and the 1932 Disposition.
4. It is unclear to what extent a library was ever provided and the evidence suggests that in substance the property has been used as a community centre, bowling green and outdoor amenity area for a considerable time.
5. South Ayrshire Council received a request under Part 5 of the Community Empowerment (Scotland) Act 2015 for a Community Asset Transfer of ownership of the Barr Community centre from Barr Community SCIO, which was validated by the Council on 21 March 2024. As the Trust presents a restriction on the ability of the Council to dispose of the property, at its meeting on 25 September 2024, the Cabinet decided to approve the asset transfer request, conditional on the resolution of the title issue relating to the property caused by the existence of the Trust.
6. In terms of the Council's Scheme of Delegation at paragraph 2.1.11 on page 12, authority is delegated to the Cabinet to determine arrangements for the administration of Trusts for which the Council is responsible following consultation with local Elected Members.

7. The purposes of the Barr Community SCIO as laid out in its constitution at the time the asset transfer request was made, stated that the Barr Community Centre was to be used “to benefit people who live or work in the Barr Community Council area (the “Community”), to protect the Barr Community Hall as an asset at the heart of the rural community, to establish a viable and sustainable community facility for all ages and abilities in the Community”. Membership of the Barr Community SCIO is open to any members of the Community as defined in the constitution.
8. While it is considered that the proposed purposes for the use of the asset contemplated by Barr Community SCIO fall within what might be regarded as a relevant "benefit" in terms of the Trust, modern conditions suggest that the Trust purposes may need re-organisation to reflect those conditions more fully. The Trust purpose for the “benefit of the inhabitants of the Parish of Barr” is very widely framed and could be aligned more closely with the purposes of the Barr Community SCIO.
9. In addition, whereas the purposes in terms of the constitution of Barr Community SCIO were to benefit to people living or working in the Barr Community Council area, in contrast, the Trust purposes, as contained in the 1920 Court Decree and the 1932 Disposition, refer to the property being held “for the benefit of the inhabitants of the Parish of Barr”. The former Parish of Barr covered a wider area than the current Barr Community Council area. In the circumstances and with a view to ensuring that there is no loss of public benefit, Barr Community SCIO have amended the definition of “community” in their constitution to include people living or working in the former Barr Parish area, as well as in the Barr community council area. The changes to the constitution were agreed by the Barr Community SCIO at its Annual General Meeting on 30 April 2025 and approved by the Scottish Charity Regulator, OSCR, on 8 May 2025.
10. Provision of a library as a Trust purpose may be thought to be redundant given modern conditions.
11. Section 10 of the Law Reform Miscellaneous Provisions (Scotland) Act 1990 (the “**Act**”) provides as follows:

**“Small trusts.**

*10. (1) Where a majority of the trustees of any public trust having an annual income not exceeding £5,000 are of the opinion—*

- (a) that the purposes of the trust, whether in whole or in part—*
- (i) have been fulfilled as far as it is possible to do so; or*

- (ii) can no longer be given effect to, whether in accordance with the directions or spirit of the trust deed or other document constituting the trust or otherwise;*
- (b) that the purposes of the trust provide a use for only part of the property available under the trust;*
- (c) that the purposes of the trust were expressed by reference to—*
  - (i) an area which has, since the trust was constituted, ceased to have effect for the purpose described expressly or by implication in the trust deed or other document constituting the trust; or*
  - (ii) a class of persons or area which has ceased to be suitable or appropriate, having regard to the spirit of the trust deed or other document constituting the trust, or as regards which it has ceased to be practicable to administer the property available under the trust; or*
- (d) that the purposes of the trust, whether in whole or in part, have, since the trust was constituted—*
  - (i) been adequately provided for by other means; or*
  - (ii) ceased to be such as would enable the trust to be entered in the Scottish Charity Register; or*
  - (iii) ceased in any other way to provide a suitable and effective method of using the property available under the trust, having regard to the spirit of the trust deed or other document constituting the trust,*

*subsection (2) below shall apply in respect of the trust.*

- (2) Where this subsection applies in respect of a trust, the trustees may determine that, to enable the resources of the trust to be applied to better effect consistently with the spirit of the trust deed or other document constituting the trust—*
  - (a) a modification of the trust's purposes should be made;*
  - (b) the whole assets of the trust should be transferred to another public trust;*

*or*

- (c) *that the trust should be amalgamated with one or more public trusts.*
- (3) *Where the trustees of a trust determine as mentioned in subsection (2)(a) above, they may, subject to subsections (4) to (6) below, pass a resolution that the trust deed be modified by replacing the trust purposes by other purposes specified in the resolution.*
- (4) *The trustees shall ensure that, so far as is practicable in the circumstances, the purposes so specified are not so far dissimilar in character to those of the purposes set out in the original trust deed or other document constituting the trust that such modification of the trust deed would constitute an unreasonable departure from the spirit of such trust deed or other document.*
- (5) *Before passing a resolution under subsection (3) above the trustees shall have regard—*
- (a) *where the trust purposes relate to a particular locality, to the circumstances of the locality; and*
- (b) *to the extent to which it may be desirable to achieve economy by amalgamating two or more trusts.*
- (6) \* -----
- (7) *Subject to subsection (14) below, a modification of trust purposes under this section shall not have effect before the expiry of a period of two months commencing with the date on which any advertisement in pursuance of regulations made under subsection (13) below is first published.”*

*\*(6) repealed by Charities and Trustee Investment (Scotland) Act 2005 Schedule 4 (1) para. 7(d)(ii).*

12. The Trustees considered the background to the Trust and the provisions of the Act. The Trustees noted that the Trust is a small trust for the purposes of section 10 of the Act.
13. It was noted that the purposes of the Trust in relation to the provision of a library are being adequately provided by other means, namely that there is a mobile library service provided by South Ayrshire Council which visits Barr once a week, and that Girvan, located 8.5 miles away, has a library provided by South Ayrshire Council. The internet provides a wide range of free, accessible e-resources, providing reading and educational opportunities for those with free library membership. The Council’s Library Service also engages through appropriate and approved social media platforms, including the Council website.

14. It was further noted that the definition of the community in the constitution of the Barr Community SCIO had been amended to include people living or working in the former Barr Parish area, as well as people living or working in the Barr Community Council area, and that this amendment had brought the current proposals more closely in line with the original Trust purposes to ensure the Trust beneficiaries would receive full benefit from the current proposals.
15. It was considered that it would be a better use of the Trust property for the Trustees to dispose of the Community Centre to the Barr Community SCIO which will enable the Barr Community SCIO to provide community and recreational facilities for all ages and abilities. The Barr Community SCIO proposes to purchase the Barr Community Centre and renovate it into a multi-purpose, accessible, environmentally friendly, sustainable, community-centred hub, providing a café/ bar, snug area, meeting room, large hall, fully equipped kitchen, office/hotdesking space and public toilets. It is considered that the proposals will reduce social isolation and boost community health and wellbeing, while providing opportunities for community activities, projects, local business creation, events, and workshops. The Centre will provide much needed facilities for the area.
16. The disposal will also mean that South Ayrshire Council will not be using its own funds to maintain or staff the property of the Trust.
17. The Trustees therefore **resolved** as follows: -

That the **purposes of the public trust** which was established by the Reverend John Angus, Minister of the United Free Church of Scotland Congregation, Barr, Ayrshire, who was infeft in the property conform to Disposition granted by Douglas Alexander Smith Cuninghame, Esquire of Dinmurchie, in the County of Ayr, and residing at Fairlie House, near Kilmarnock, in his favour, dated twenty fourth May and recorded in the Division of the General Register of Sasines applicable to the County of Ayr on tenth June both in the year Nineteen hundred and eleven, said trust having been recognised by the Court of Session in terms of Extract Decree of the Lords of Council and Session dated Fifth November Nineteen hundred and twenty, in Petition by Gilbert Kennedy, Farmer, Delamford, Dailly, George Adam, Teacher, sometime Barr later at Jackton (therein called "Jackson") Schoolhouse, East Kilbride, John Lambie (therein called "John Lammie") Barr, George Bruce Faulds, and Reverend Edward Brown, Annbank, Ayrshire, the Trustees nominated and appointed and acting under the Trust Disposition and Settlement executed by the Reverend John Angus, Minister of the United Free Church of Scotland Congregation, Barr, Ayrshire, dated Second September Nineteen hundred and eighteen, extracted said Decree on Sixth December Nineteen hundred and twenty and recorded in the Division of the General Register of Sasines applicable to the County of Ayr on Eighteenth December Nineteen hundred and twenty four (the "**Extract Decree**"), and referred to in the Disposition granted by George Bruce Faulds as Trustee within-mentioned in favour of the Parish Council of the Parish of Barr in trust for the Inhabitants of the Parish of Barr dated Fifteenth August Nineteen hundred and twenty one and subsequent dates and recorded on behalf of the Girvan Area Number One District Council of the County Council of the County of Ayr as the Statutory Successors of the within named Parish

Council of the Parish of Barr in trust as within mentioned in the said Division of the General Register of Sasines on Twenty ninth April, Nineteen hundred and Thirty two (the “1932 Disposition”), be modified as follows: -

The purposes of the Trust contained in the Extract Decree and the 1932 Disposition are to be deleted in their entirety and the following purposes are substituted therefor:

**“The trust estate will be vested in the Trustees inter alia for the provision of community and recreational facilities for all ages and abilities to improve the conditions of life for the benefit of people who live or work in the Barr Community Council and the former Barr Parish areas, shown outlined red, partly hatched black, partly hatched black and shaded blue, and partly shaded blue and unhatched, on the attached plan and, in relation to the purposes, the Trustees will have all of the powers of trustees provided in section 4 of the Trusts (Scotland) Act 1921, including the right to sell the trust assets to such persons and on such terms as the Trustees shall consider to be in fulfilment of the purposes of the Trust.”**

