

Evaluation of Storr SCT ATR

Guidance for Relevant Authority - Reference	Claimed Key Benefits of ATR	Key Information to be Considered in the Decision Making Process	Assessment Against Best Value Overview Statements in relation to land requested and conditions of the ATR
<p>Benefit to the Community</p>			
<p>Social Wellbeing</p>	<p>Increased economic activity enabling the retention of people and families.</p> <p>Community control and engagement.</p> <p>Surplus generated for secure future of Trust and for Trust to deliver other socio economic projects for community.</p>	<p>Generated income for Social Benefit and Community control and engagement would be a welcome and positive outcome of the proposed project; however, this can also be realised from alternatives considered as part of the evaluation process, whilst also protecting a wider public benefit.</p> <p>The proposal that there should be no economic development burden/'clawback' is potentially a negative impact upon THC and wider public benefit. Transferring without an economic development burden or similar contractual condition would also not be prudent as there would be no arrangement for the Council to be able to either recover the property if it is not being used for the intended purpose or to recover any increase in value should the use change.</p> <p>The ATR if approved as is would commit all resources – capital and revenue – to one small part of the site without due consideration of the financial needs /impact of and on the wider site.</p> <p>Additional information was requested from SCT on any analysis of how the maintenance of the remainder of the site is to be delivered /funded. If any Risk analysis had been carried out in relation to maintenance of remainder of site and Risk analysis in relation to lack of SCT control of remainder of site. The response from the Trust was – <i>“This is not the SCT's responsibility.”</i> This does not appear to consider the impact that this could have as a knock on effect to the claimed benefits and how this lack of reinvestment in the wider site would be detrimental to the integrated management of the site for wider, sustainable public benefit.</p> <p>Additional information was also requested regarding any analysis of potential revenue sharing option/s and alternative models for delivery. The response was – <i>“There are no plans to share the revenue. Profits will be directed by SCT to benefit the local community. Any model for delivery that does not involve substantial long-term control of the site (lease for 50 years plus or purchase) by SCT will make the project ineligible for funding.”</i> The Options Appraisal and feasibility Study indicates - <i>“a long lease (minimum 25 years) on the site”</i> would be eligible for funding.</p>	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>
<p>Public Health [& Safety]</p>	<p>Improved road safety through increased car park capacity and traffic management.</p>	<p>Improved road safety through increased car park capacity and traffic management is a primary aim of proposals at the site.</p> <p>The laybys are currently part of the adopted road. To allow them to be used as part of the private parking areas and for SCT to collect income, a stopping up order would have to be promoted and if approved they would then cease to be part of the public road. However, the recommendation of the Roads Service is that</p>	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for</p>

	Provision of Public Toilets	<p>the Council should not isolate (stop up) a portion of the road for the use of a third party due to the road safety & legislative issue. Alternative models considered through the evaluation process would also increase car parking capacity (Council draft proposals have been on hold since November 2014, pending a partnership approach with SCT).</p> <p>Whilst proposed parking would be a huge improvement there is a high risk that construction costs could be higher than anticipated due to the slump topography (as acknowledged with the SEP Risk Register p.26). Despite this no peat survey has been commissioned to determine any mitigating measures required. This could lead to failure of the project and the condition of no economic development burden or clawback rights and the transfer of £400, 000 from the Council would not be prudent.</p> <p>Transferring without an economic development burden or similar contractual condition would also not be prudent as there would be no arrangement for the Council to be able to either recover the property if it is not being used for the intended purpose or to recover any increase in value should the use change.</p> <p>Provision of toilets would be a very significant benefit to the site but again are at risk pending the final construction costs and securing additional external funding. THC current proposals do not allow for toilets but these could be included in a more commercial approach to in-house development of the site, in addition Alternative models considered could also include the provision of toilets.</p>	<p>money.</p> <p>Moderate – Related projected benefits are acceptable and could lead to value for money.</p>
Economic Development and Regeneration	Direct Employment 1.8 FTE	<p>No evidence of assessment of risk in relation to staff resource for assumed work patterns, despite the fact that it could have a potential impact on the viability of the proposal. Staffing assumptions in the SCT, SEP, only anticipate employment over 7 months of the year with daily working hours varying between 1 to 12 hours. Parking charges can only be enforced as a matter of contract (no statutory enforcement) and so are reliant on voluntary compliance to do so. Income generation is assumed on a compliance rate of 80% (as per SEP P.18 income & expenditure and staffing assumptions). Projections provided by the Trust for a reduction in income should compliance reduce to between 45% and 70% show a significant risk to the viability of the project.</p> <p>If a partnership model with the Council there is potential that Parking Enforcement Officers would contribute to the FTE claimed, with the benefit of being able to enforce charges and a presence maintained all year through a full time post.</p>	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>
Environmental Wellbeing	Better management and enhanced natural heritage.	<p>The project would deliver improvements, however, it is unlikely that they would be any better than that provided through any of the alternatives – There is also no consideration of environmental maintenance /improvement of wider site and does not recognise the risk if there is no holistic approach to the management and maintenance of the site in its entirety. This is evidenced in a response from SNH to the Trust when they sought the views of SNH regarding their proposals – <i>“Benefits are likely to be maximised by progressing these improvements as part of a holistic approach to management of the Storr forest and Old Man of Storr, collaborating with other stakeholders to improve the overall visitor experience and protect/enhance the natural heritage assets at this nationally important site.”</i></p>	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>

Capacity to Deliver			
<p>Capacity/Governance/Skills Experience/Qualifications/</p> <p>- Funding Sources</p>	<p>Staffin Community Trust</p> <p>SLF – stage 2 application purchase of land, development costs</p> <p>THC £400k capital</p> <p>LEADER expression of interest £100k</p>	<p>Appendix 5 Skills Audit – Social Enterprise Plan p.28-29 demonstrates the strength of the organisations capacity in terms of governance & management, funding & fundraising and managing people.</p> <p>THC will need to capture certainty regarding funding in T&Cs of any transaction. THC is also eligible to apply directly for certain funding sources such as LEADER and HLF. SCT appear to be requesting a THC contribution of £400k irrespective of what other funding may be secured and without a mechanism for clawback. This is unlikely a prudent use of public funding and THC should expect this capital to be used to attract equal or greater match funding from external sources. Transferring without an economic development burden or similar contractual condition would also not be prudent as there would be no arrangement for the Council to be able to either recover the property if it is not being used for the intended purpose or to recover any increase in value should the use change.</p> <p>When additional information was requested to provide any letters of support/intent from potential funding sources the Trust response was as follows – <i>“This is not possible because SCT cannot make any application to other funders until it knows THC’s response to the ATR.”</i> The response also included the following – <i>“SCT and its advisers could investigate a phased construction programme with the project works divided up into separate funding applications. SCT has not investigated potential funders at present.”</i></p>	<p>Strong - Related projected benefits are demonstrated well and represent value for money</p> <p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>
Level of Community Support			
<p>Numbers in community and numbers in their organisation</p>	<p>500 people in community; postal consultation 55% response to 255 questionnaires distributed.</p> <p>86% support SCT; generally in favour of nature of proposals on site, except refreshments.</p> <p>Wider Community Consultation</p>	<p>140 responses returned, however some returns will represent more than one individual and households also had the opportunity to complete multiple forms.</p> <p>Whilst the level of consultation within the Trust’s community of interest is relatively high it is not clear to what extent the support is for the request submitted in the ATR - 86% support was in the context of the following question - Would you support the Staffin Community Trust potentially managing and/or purchasing all or part of the Storr site? 119 residents answered the question with 103 saying yes.</p> <p>When additional information requested regarding membership of the Trust the SCT response indicated the following – <i>“At time of writing there are 90 SCT members with approximately 98% resident in Staffin.”</i></p> <p>Although there was substantial consultation of a project for Staffin Trust to be involved at the Storr, the site does not lie wholly within Staffin CC area and the Options Appraisal acknowledges the significance of the site to the whole island and beyond. When additional information requested regarding any evidence of consultation with wider Skye communities the Trust highlighted discussions with the Skye Connect Tourism industry organisation post submission of the ATR and with a Community Group involved in a similar project</p>	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>

		<p>at Fairy Pools. The Trust also referred to a discussion with the Portree & Braes Community Trust in January 2016 pre options appraisal but there is no detail of what was discussed or if that community was consulted.</p> <p>Approximately 1/3 of the land requested lies within the Portree & Braes Community Council Area and although reference has been made to meetings with the Portree & Braes Community Council circa 2013, no evidence of what was discussed or agreed in relation to any proposals relating to the ATR has been submitted as part of the additional information requested.</p>	
Sustainability			
<p>Governance –sustainability of the organisation</p> <p>Financial – ability to support/fund the asset in the future</p>		<p>When asked for any analysis of staff capacity within the Trust for additional workload and any evidence of succession planning the Trust provided the following response - <i>“SCT is confident that it’s LDO, closely supported by the board of directors and its main funder, Highlands and Islands Enterprise, will have the staff capacity to accommodate the additional workload. Some of the proposed work will be the responsibility of the soon to be appointed F/T Skye Ecomuseum Programme Manager.”</i> The Trust has been well established for a number of years and has a good track record of being sustainable.</p> <p>Cash flow projections provided by the Trust when asked for additional information demonstrate that a reduction in income should compliance reduce to between 45% and 70% show a significant risk to the viability of the project – cash generated ranging between £14,248 and £575 in 2019 & 2020 based on 70% and 45% compliance – 80% shows as £20,258 & £20,692. These figures are also based on the assumption that the road side layby is transferred.</p> <p>No evidence of assessment of risk in relation to staff resource for assumed work patterns, despite the fact that it could have a potential impact on the viability of the proposal. There is a potential lack of demand for this type of seasonal work pattern in a rural site as evidenced at the Laggan Locks experience, when THC Officers took a representative of the SCT on a fact finding mission to various sites across Scotland to consider possible partnership management models suitable for the Council owned site at the Storr.</p> <p>Information provided by the SCT suggests that the preferred option of the SCT Board is not to register for VAT but to get expert advice if the ATR is approved. This has an additional risk to the project of increasing the capital cost by £163,183 as identified on page 16 of the SEP.</p> <p>When additional information was requested to provide any letters of support/intent from potential funding sources the Trust response was as follows – <i>“This is not possible because SCT cannot make any application to other funders until it knows THC’s response to the ATR.”</i> The response also included the following – <i>“SCT and its advisers could investigate a phased construction programme with the project works divided up into separate funding applications. SCT has not investigated potential funders at present.”</i> This would suggest a potential risk to the future development and sustainability of the project and a real risk if the Council were to commit £400k with the condition of no economic burden or clawback. Transferring without an economic development burden or similar contractual condition would also not be prudent as there would be no arrangement for the Council to be able to either recover the property if it is not being used for the intended purpose or to recover any increase in value should the use change.</p>	<p>Strong - Related projected benefits are demonstrated well and represent value for money</p> <p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>

		<p>The SCT was asked for additional information in relation to analysis of potential negative impacts of the proposal, their significance and mitigating measures, the response was <i>“SCT does not consider there to be any potential negative impacts of the Storr Project proposal.”</i> Additional information was also requested from SCT on any analysis of how the maintenance of the remainder of the site is to be delivered /funded. If any Risk analysis had been carried out in relation to maintenance of remainder of site and Risk analysis in relation to lack of SCT control of remainder of site. The response from the Trust was – <i>“This is not the SCT’s responsibility.”</i></p> <p>Neither response appear to consider the negative impact that this could have as a knock on effect to the claimed benefits and how this lack of reinvestment in the wider site would be detrimental to the integrated management and maintenance of the site for wider, sustainable public benefit and the negative impact on the Council’s ability to deliver its functions specific to the Storr.</p>	
Resourcing			
<p>Value of Asset requested/ Requested purchase/discount value/ Ability of organisation to pay</p>	<p>£10,000/£1000</p>	<p>The SCT agreed to a joint valuation by the DV and paid half of the fee, this was following an earlier evaluation instructed by the SCT. The draft evaluation from the DV is £10,000 and the SCT through the ATR has offered £1000. The SCT is eligible for a Scottish Land Fund stage 2 application having already secured funding for a stage 1 application. Any funding by the SLF would cover the cost of land purchase and funding towards development costs of the project excluding any capital works.</p> <p>The request requires the transfer of £400k of capital budget from The Highland Council to Staffin Community Trust. There is no allocation of capital budget specifically to this site for visitor management within the Council’s confirmed capital programme for the 2017/18 financial year. With reference to the requirement in the conditions that no economic burden or clawback is attached to the transfer, a contribution of £400k capital funding from the Council would not be prudent without clearly agreed contractual outcomes and confirmed match funding as it is our opinion that this fails to protect the public interest in perpetuity. Transferring without an economic development burden or similar contractual condition would also not be prudent as there would be no arrangement for the Council to be able to either recover the property if it is not being used for the intended purpose or to recover any increase in value should the use change.</p> <p>Key criteria and clear advice was provided to the SCT on how the Council could transact with SCT regarding the Council owned site at the Storr and in relation to the provision of financial resources:</p> <p>It is recorded in the minutes of meetings with SCT, that potential funding for the development of visitor management at the Storr is subject to ongoing affordability and that it is reviewed annually. The PDI report of 2nd Nov. 2016 clearly indicates that for any Council allocation: <i>“it is intended to enable the community and Council to secure significant external funding.”</i> <i>“which it is anticipated can be delivered through an innovative approach to working in partnership”</i> <i>“Members of the Projects & Facilities Team have undertaken a number of research trips together with representatives of SCT in order to explore partnership models for delivery appropriate to Storr and dialogue is continuing with a view to establishing a mechanism for joint delivery.”</i> <i>“The shared vision is that innovative partnership working between the Council and the Trust will enable both to deliver more than either could achieve alone.”</i></p> <p>Despite the inclusion of the above in the report the ATR fails to recognise this and the proposed</p>	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>

		<p>disaggregation of the car park from the remainder of the site separates the capital investment and revenue generating potential of the site from the burden of management and maintenance. The lack of reinvestment in the wider site would be detrimental to the integrated management of the site for wider, sustainable public benefit. The proposal would therefore have a negative impact upon the ability of the Council to deliver its functions.</p> <p>Key priorities shared with the Trust as a mechanism for any transaction in a partnership approach that the ATR fails to contribute to include:</p> <ol style="list-style-type: none"> 1. Reinvests revenue generated from parking for development, management and maintenance of all existing and proposed facilities at Storr. 2. Protects the Council's financial interests e.g. Economic Development Burden. 3. Protects community benefit and public access in perpetuity. 	
<p>Obligations and Restrictions - Title Conditions</p> <p>Relevant Authority's Functions - General: Administration; Local & National Outcomes etc</p> <p>Specific to Storr: stated management objectives</p>	<p>SNH Management Agreement to 2054: cannot sell without SNH agreement; if sold potential financial clawback from SNH; SNH right of pre-emption.</p> <p>SRDP Contract: maintenance of establishing woodland.</p> <p>Asset Management Project Board April 2016: 3.3 It is recommended that the Council should seek to transact with SCT through a mechanism which meets the following preferred criteria</p>	<p>Informal discussions have taken place with local SNH Officer who has indicated that in his view SNH would be unlikely to object to an ATR, providing management conditions transferred to the community group in line with the existing agreement. This would need to be formalised as part of any contract should a Transfer be agreed.</p> <p>The ATR requests that mineral and sporting rights are included in the transfer – it would not be possible to include sporting rights as sporting rights over the area are held by Lord MacDonald under a Sporting Lease by Secretary of State for Scotland in his favour.</p> <p>Proposal does not recognise the need for SCT to adopt obligations under SRDP for any area which transfers. Important that this is not overlooked as it would leave THC with unreasonable liabilities.</p> <p>The Council has a number of Local & National Outcomes that are pertinent to the Management & Maintenance of the Storr as identified below:</p> <p>PDI Committee November 2016: 4. Programme for the Administration - Highland First:</p> <ol style="list-style-type: none"> 1. Realising the full potential of communities – involving and empowering communities in new and better ways including opportunities for partnership working and community land ownership. 2. Delivering positive rural impacts including investment in remote locations. 3. Enhancing town and village environments and contributing to development of the character and quality of the City environment. 4. Enabling best use of opportunities for European and other external funding. 5. Supporting the economic benefits derived from tourism through improvements in visitor experience and developing Highland as a world class destination. 6. Contributing to delivery of the Gaelic Language Plan - working in partnership with communities and through the provision of information to visitors. 7. Contributing to health improvements through promotion of access to both countryside and urban networks. 	<p>Weak – Related projected benefits are not based on robust information and demonstrates questionable value for money.</p>

Priorities to which the proposed ATR contributes: 2, 4, 6
Priorities to which the proposal partially contributes: 1, 5, 7
Priorities to which the proposal does not contribute: 3

Partial contributions are such because of the disaggregation of the site in the proposal and failure to promote collaboration and a true partnership. Priority 3 is [not] relevant to this site.

Highland Council's stated aims for woodland management at Storr:

1. Protect and enhance the designated features of the site.
2. Protect and enhance the natural and cultural features of the woodland area.
3. Protect and enhance the provision of public access.
4. Protect and enhance the public water supply.
5. Protect and enhance the contribution made to the economy through tourism.
6. Manage the woodland appropriately and in the most effective way to meet these multiple objectives.

Aims fully met by the proposed ATR: none

Aims partially met by the proposal: 2, 3, 5

Aims not met by the proposal: 1, 4, 6

Aims defined on previous management plans / SRDP Forest Plan contract. None of the aims are fully met by the proposal. Those met partially or not at all are such because of disaggregation of the arrival area from the whole site. THC preferred outcomes would include the use of resources for the on-going management and maintenance of the whole site, for the benefit of the whole Island and Highland, this would support maximising a wider public benefit than the proposed ATR.

Asset Management Project Board April 2016: 3.3 It is recommended that the Council should seek to transact with SCT through a mechanism which meets the following preferred criteria:

1. Enables the provision of safe/fit for purpose parking.
2. Enables the provision of public toilets.
3. Reinvests revenue generated from parking for development, management and maintenance of all existing and proposed facilities at Storr.
4. Empowers the community to take greater responsibility for all or part of the site and to generate revenue, over and above that required for Storr, for investment elsewhere in community projects.
5. Utilises Council capital as match funding to access additional funds for development at Storr and, potentially, in the wider locality.
6. Protects the Council's financial interests e.g. Economic Development Burden.
7. Protects community benefit and public access in perpetuity.
8. Enables the Council and SCT to deliver together, more than either could achieve alone.

Criteria met fully by the proposed ATR: 1, 2, 5

Criteria met partially by the proposal: 4, 8

Criteria not met by the proposal: 3, 6, 7

		<p>Criteria fully met will only be realised if the Trust is successful in attracting match funding. Criteria partially met are such because of the disaggregation of the site in the proposal and failure to promote collaboration and a true partnership working. Criteria not met are such because the proposal does not take due account of the site as a whole and its need for management and maintenance over time.</p> <p>Furthermore, the AMPB report stated at paragraph 3.2 it is of great importance that the ability of the site to generate income is not separated from the onus of expenditure to develop manage and maintain the property, both in its current condition and for the delivery of much needed improvements. Only once such benefits are secured should consideration be given to utilisation of surplus revenue, if any.</p> <p>The report was provided to the Trust and its advisors at an early stage for their information and in order that this be fully considered in their proposal. The report was further drawn to the attention of the Trust at the time of ATR submission as this was considered to be a matter of sufficient significance that it might lead to rejection of the proposal. Despite these communications, the proposal is one for disaggregation and revenue redirection away from the needs of the site and without recognition of the need for an integrated and holistic approach for delivery of greatest public benefit.</p> <p>When additional information requested relating to any analysis of potential negative impacts of the proposal, their significance and mitigating measures, the SCT response was as follows – <i>“SCT does not consider there to be any potential negative impacts of the Storr Project proposal.”</i></p>	
Additional Information Relevant to the ATR request from Staffin Community Trust			
Decision-making process	<p>Email sent to SCT 2nd Feb 2017</p> <p>Alternative – following preliminary evaluation an initial response was sent to SCT 20th June 2017 indicating the request was likely to be refused in its current form but an alternative could be agreed to – the</p>	<p>At the time of pre validation of the ATR, the Council lead Officer sent an email on the 2nd Feb 2017 that included – <i>“The Scottish Government Guidelines indicate that the relevant authority should advise community bodies, at an early stage, if there are likely negative consequences or reasons for refusal of the request as submitted. Such information is intended to facilitate the identification of mitigating measures and to allow the proposals to be revised at an early stage. Assuming that the Social Enterprise Plan provided will form the basis of your formal ATR in due course, I would draw your attention to the ‘Storr Woodland, Staffin, Skye’ report to the Council’s Asset Management Project Board, 19th April 2016, in particular paragraphs 3.2, 3.3 and 4.2. This report has been previously provided to you and your advisors and discussed at our joint meetings. The Trust may wish to further consider proposals in this context prior to ATR submission, but is not obliged to do so.”</i></p> <p>The initial response included –<i>“The main grounds that make it likely that the Board will refuse the request relate to the disaggregation of the part of the site which has the potential to generate revenue from the burden of management and maintenance of the Council owned site as a whole, as agreeing to the request would restrict the Council’s ability to carry out its functions; the condition in the request that it is conditional on the Council transferring £400,000 of capital funding from the Development & Infrastructure Service; and the inclusion within the area covered by the transfer request of the existing roadside layby which is an integral part of the public road, as only a Roads Authority can manage and maintain a public road.”</i></p>	

	<p>preferred alternative identified was Lease of the whole site, excluding the roadside layby.</p>	<p>When additional information requested regarding any evidence of consideration of alternative models for community involvement e.g. leasehold, the Trust response indicated the following -<i>“This was considered through the options appraisal process.”</i></p> <p>Having checked the Information provided in the Options Appraisal and Feasibility Study the following was noted specific to the option relating to the ATR request: The Trust leasing this part of the site on a long lease, rather than owning, for the same purpose above (owning).</p> <p>Ownership or a long lease does have the potential for the Trust to manage the Storr site as a whole.</p> <p>Funding will not be available to the SCT at all unless it has ownership or a long lease (minimum 25 years) on the site.</p> <p>The SCT response to the Council initial response stated – <i>“After careful consideration of the THC letter, and having taken specialist third party advice, it is still the opinion of the SCT that it should persevere with the initial ATR request, even if the board require to take this to appeal.”</i></p>	
<p>Decision Notice –<i>You should advise the community transfer body of any potential delays at the earliest opportunity, and seek their agreement to an extension to the time period.</i></p>	<p>Meeting held on 20th July to discuss initial response from the Council to SCT.</p>	<p>At the meeting an additional month extension was requested to allow for any slippage in the report from the DV; depending on the outcome of the report THC may have to ensure transparency about the amount of any reduction from market value and for Best Value and State Aid assessments. The additional month would also allow more time for the additional information requested at the meeting to be considered and for both parties to consider any alternative solutions.</p> <p>The SCT response to the extension request included the following statement - <i>“Having received the THC response and discussed it with the board and its advisers, SCT has decided that a delay in assessing the ATR is not in the best interests of this project. On behalf of SCT, I would please request that THC continue assessing the ATR as it is, unaltered, and make a decision by Wednesday, September 6.”</i></p>	