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**Staffin Community Trust**

 **Church of Scotland annexe**

**Staffin**

**IV51 9JX**

**10.7.17**

**Willie MacKinnon**

**Eilean a’ Cheò Ward Manager**

**Highland Council**

**Tigh na Sgire**

**Portree**

**IV51 9EH**

Dear Willie,

Thank you for sending The Highland Council’s (THC) initial response to Staffin Community Trust’s (SCT) ATR for the Storr Project. THC’s response was extensively discussed at the SCT’s board meeting on Tuesday, July 4th.

This is one of the first ATRs in the Highlands to be considered through the terms of the Scottish Government’s new Community Empowerment legislation. SCT is confident it meets the legislation’s expectations.

The Community Empowerment law allows community organisations to request ownership, lease or management of publicly owned buildings or land, whether or not they are available for sale or deemed surplus to requirements by the owning body. The initiative is placed with communities and their requests must be granted unless there are reasonable grounds for refusal. Public bodies must also respond to information request about the assets it holds when requested. If an ATR is agreed, the public authority must make an offer to the community body within SIX months, unless the community body and public authority agree to an extension.

The legislation reinforces the view that public bodies should focus on the assets within communities and on the potential individuals have to improve the quality of their lives, moving away from an expectation that this is the sole responsibility of public bodies, whose efforts have largely and traditionally focused on planning services around shortcomings and deficits

With that in mind and following our meeting to consider your response, I would like to provide a comprehensive reply, on behalf of SCT.

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. That is, to buy from THC the area of land identified in the ATR application with a view to creating much needed car-parking alongside toilet facilities and interpretation as a gateway to *Ceumannan* (the SCT’s Skye Ecomuseum project) and the wider ‘fragile’ community in north-east Skye and areas beyond.

There are sound and justifiable reasons why SCT has reached this decision.

The forestry consultant Chris Marsh, of the Community Woodlands Association, was tasked by SCT to make a thorough assessment of the long-term management, obligations and liabilities of the Storr Woodland and paths. He submitted his draft report prior to the SCT board meeting.

In his assessment, Mr Marsh agrees with the consistent advice, given to SCT by ITS advisers and the Options Appraisal consultant team, that there is absolutely no benefit to the SCT, or the community we represent, in expanding the ATR to include the Storr Woodland.

On the contrary, SCT would face increased long-term liabilities, obligations and financial risks. Mr Marsh concludes that there is no financial support, through forestry grants or otherwise, that would help meet these continuous obligations. And, as THC knows, the SCT does not have the financial resources of its own to deal with the burden of this plantation, which appears to have had significant issues in terms of infestation, tree failure and sustainability.

The SCT was taken aback, after all the work that has been done, to learn that the Asset Management Project Board (AMPB) is minded to refuse this ATR. This is a matter of huge concern not only to SCT but to other communities throughout Scotland, and the Scottish Government.

To re-cap, this ATR came about following public meetings, instigated by THC where it invited expressions of interest before agreeing that SCT was an organisation with suitable experience and expertise to bring forward a proposal that would address escalating concerns about safety, provision of services and infrastructure.

At that time, the SCT chairman wrote on two occasions to THC with alternative proposals for replanting and interpretation of the woodland area after the commercial forestry was felled. Neither of these letters was responded to and THC proceeded independently with a planting programme that utilised the grant resources available and leaving no opportunity at that time for partnership working. This was a missed opportunity but the decision was taken by THC to go it alone.

There followed several years of discussion, extensive research and knowledge sharing, led by a forward-thinking development trust, THC employees who were supportive (but unfortunately who are no longer employed) engaging Scottish Government, professional advisers and other public agencies.

The extensive research (supported by a significant sum of public money) resulted in a comprehensive Options Appraisal and Social Enterprise Plan clearly identifying a range of social and economic benefits for an area classified as fragile, as well as the wider Skye community.

It also recognised the financial limitations of the SCT and gave clear advice that other options should not be considered as they could ultimately be detrimental to the organisation as it would continuously require financial resources that it would not be able to find year-on-year.

The SCT, operating under the Strengthening Communities directorate of Highlands and Islands Enterprise, have an obligation to become self-sustaining (while it has a Local Development Officer in post) and to engage projects that will allow it to contribute financially to further development in the wider community. That does not include taking on liabilities, such as the Storr Woodland, that clearly, as evidenced, have no long-term benefit.

THC is well aware of the national debate regarding infrastructure projects and the need for communities to engage and deliver services for the tourism industry. Indeed, a recent public meeting, chaired by Kate Forbes MSP, was held in Portree to discuss this very issue. There is no greater example for our area than that at the Storr and the recognition of the considerable benefits to Skye’s vital tourism industry that a project such as proposed by the SCT, would have.

The board wants to remind THC that SCT has a comprehensive mandate, from the local community, following a major public consultation which returned an 85.6% approval rate, to take forward its proposals for the specified Storr car-parking site and to install toilets and interpretation.

We are also concerned that the AMPB has failed to recognise the urgent need for broader infrastructure investment on the island and the negative impact that this decision will have on the confidence of other communities. This is an issue that has received national attention and will escalate because of a local authority not moving forward in the spirit of the new legislation.

I would like to respond to the AMPB’s main points as follows:

1. **The SCT requesting to purchase the part of site which has the “potential to generate revenue from the burden of management and maintenance of the Council-owned site as a whole”.**

The Community Empowerment legislation assists communities with a right to request to purchase, lease, manage or use the land and buildings belonging to local authorities, Scottish public bodies or Scottish Ministers.

It is the specific area of land that the community body wishes to purchase which is backed by the legislation – not an additional area, as suggested by a third party (such as THC), that the organisation does not want and cannot afford to manage.

The legislation states there will be a presumption of agreement for an ATR, unless *“there are reasonable grounds for refusal”.* Reducing inequalities is also a key factor for public authorities to consider when making a decision.

Staffin is classed as a “fragile” economy by the Scottish Government and this project will directly address rural inequalities through an economic boost and job creation giving opportunity to further develop a gateway and other related infrastructure to arguably Skye’s most popular visitor destination.

SCT does not believe there are reasonable grounds for a refusal, indeed the AMPB’s own criteria, which I have attached at the foot of this letter, for determining a sale, highlights the suitability of the SCT bid.

The legislation exists to help empower communities, not hinder their ambition and plans. On that basis, SCT cannot, and will not, take on a woodland, which has been beset by alarming issues including 75% failure of planted trees.

However, SCT strongly believes that the retention of the £400,000, publicly committed by THC to this project, is essential if there is to be a positive outcome at the Storr for the benefit of Skye as a whole.

SCT is proposing to use the income from the site of the ATR to create employment, help with the running costs and secure a small portion of money for SCT while delivering a significantly improved visitor experience to more than 150,000 people.

1. **Agreeing to the request would restrict the Council’s ability to carry out its functions:**

SCT does not understand or accept this statement that the ATR would affect THC’s ability to carry out its functions.

This high-profile ATR, involving a world-renowned visitor site, is one of the first to be considered under the new legislation. If the ATR is granted, THC would be perceived locally, nationally and internationally as a modern, progressive and innovative public authority. THC would be working effectively with a ‘fragile’ rural community, who can bring huge significant value to the project and deliver a solution for one of Scotland’s most iconic visitor sites.

SCT is proposing to build a car park with more capacity, with essential facilities, and is prepared to source the additional capital costs contributing significantly to the value of public spend on the project.

This project, developed and managed by the SCT (including car parking, toilets and interpretation) has an estimated investment of circa £900,000 due to the additional much needed public amenities being proposed.

THC’s own internal estimate, more than two years ago, for a new car park (which has considerably less capacity than SCT’s proposal, no toilets and no interpretation), was £407,000, which excluded design fees and VAT. SCT believes that the proposed THC car park does not have sufficient capacity to deal with the yearly increasing traffic, will be less than adequate on day one and will not entirely resolve the safety issues. Therefore, THC’s proposals are not adequate to deliver what the public perceive as being amongst its ‘functions’: delivery of a suitable long-term solution to the lack of car parking, toilets and interpretation at this significant tourist attraction.

The lack of amenities within THC’s proposal is despite toilet facilities being described as “absolutely essential” in a report to the Development and Infrastructure Committee in November 2016. And, there is no provision by THC for an essential bus stop/shelter and little detail to landscaping to improve the tourist experience and scenic impact of the car park.

The benefits of the SCT proposal are a transformed tourism experience with no dangerous parking on the roadside and reduced risk of a serious road accident: a grave concern for the island and something that has been highlighted to THC on numerous occasions. Recent events elsewhere have highlighted the difficulties faced by public bodies in relation to public safety.

THC’s policy of closing down public toilets has had an adverse effect on tourism, the main economic driver for the Island. Here we have a community development trust who is trying to do something about this and add additional value through the provision of services and through job creation to main these.

And, this is exactly the kind of forward-thinking project that the Scottish Government is encouraging through the Community Empowerment legislation and its new Islands Bill. The SCT board fails to comprehend why THC cannot see the benefits of allowing this ATR to proceed.

It is also important to understand that the THC’s current commitment to the Storr Woodland will not change as a result of the SCT proposal. The decision was made, by THC, prior to felling, to ignore the SCT proposals for a hard-wood plantation with interpretation as part of the overall attraction. Now, that the planting is in, it is hardly fair to attempt to force a community trust to take on the liability.

The Transport and Islands Minister Humza Yousaf is meeting SCT representatives later this month and the concerns of the board about the THC response will be very strongly conveyed. SCT will also proceed to advise other Ministers, who have been hugely supportive of these proposals, as to the initial response.

1. **The condition that THC transfer the £400,000 allocated to the site for a new car park and improvements, which is apparently not available for transfer to third parties:**

SCT cannot understand that the AMPB has not recognised that our proposal would ultimately save THC money, at this time of austerity.

If the SCT ATR is rejected, as suggested, THC would have to revert to its original car park plans or do nothing.

The £400,000 allocated by THC to the site does not cover all costs as they do not include design fees. And, there would be no toilet facilities, which could lead to extensive public criticism of THC, and no interpretation on-site. It would also be removing from THC the opportunity to create a ‘gateway’ to *Ceumannan* which has just received significant Heritage Lottery Fund and Coastal Communities funding for a further development phase. There is £10,000 set aside from that project for new interpretation at the Storr.

If the £400,000 is transferred to SCT then it will work hard to access match funding to deliver a new, and better car park with all the additional amenities.

This proposal was referred to at the D&I Committee in November 2016: “*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. This will enable the community to utilise the Council’s capital* *allocation for parking improvements as match funding to secure additional* *external investment for the provision of much needed toilet facilities and other* *visitor management improvements. In addition, it will create local employment* *and contribute to sustainable community development.”*

THC had engaged SCT to pursue this project and develop a partnership project, but its initial ATR response seems to fly in the face of that.

If the ATR is rejected, there will be a public outcry throughout Skye which will reflect extremely badly on THC as it inevitably means that the Scottish Government’s Community Empowerment legislation is being dismissed. Prior to the election there had been strong support from councillors and officers who had viewed it as an innovative and far reaching project, particularly given THC’s much vaunted pledge in the administration’s Highland First Programme to “empower rural communities”. SCT had hoped the newly-elected representatives and Eilean a’ Cheo ward members would have been keen to continue working towards a solution at the site which helped the community, THC and the thousands of tourists visiting our island.

This initial response to the ATR is considered a retrograde step by the SCT board and needs to be reviewed as a matter of urgency.

1. **The ATR regarding the purchase of the roadside layby, as only a roads authority can manage and maintain a public road:**

This issue is not something which has been flagged up during the options appraisal or ATR process until this late stage and would require further investigation. SCT understands that there is a process to remove the layby as part of the road boundary and will seek advice on this matter.

**SCT’s board is opposed to an extension to the ATR timetable and will not consider a fresh ATR for a lease arrangement.**

The board cannot deliver the project if the ground is leased. It was made explicitly clear to THC that leasing the site would not give the necessary security to raise the funds needed.

SCT is happy to consult with Portree and Braes Community Council relating to the small portion of land which sits within their boundary, as it has done during the Options Appraisal process and prior to that. It should be noted that there was a meeting between SCT, the Staffin Community Council and Portree Community Council to discuss the issues at the Storr in 2013. It was agreed at that meeting that PCC was content to allow SCT to deliver the project with the inclusion of parking, toilets and interpretation.

SCT looks forward to the meeting on Thursday, July 20th, to discuss the project and ATR.

Yours sincerely,

Hugh

**\*AMPB 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 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 the 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

Protects the Council’s financial interest e.g. Economic Development Burden#

7. Protects community access and public access in perpetuity

8. Enables the Council and SCT to deliver together, more than either could achieve alone