

Agenda Item	7.
Report No	SCC/11/22

THE HIGHLAND COUNCIL

Committee: Sutherland County Committee

Date: 15 August 2022

Report Title: Community Asset Transfer – Migdale Playing Field

Report By: Executive Chief Officer Communities and Place

1. Purpose/Executive Summary

- 1.1 The Community Empowerment Act introduces a right for community bodies to request to own, lease or use public sector assets at a discount on market value through a process known as Community Asset Transfer (CAT).
- 1.2 This report outlines an Asset Transfer Request from Bonar Bridge Football Club for Migdale Playing Field, Bonar Bridge.

2. Recommendations

- 2.1 Members are asked to agree the following CAT:

The lease of Migdale Playing Field, Bonar Bridge to Bonar Bridge Football Club for 25 years at rental of £1pa.

The terms of transfer would include:

- the applicant will cover both the Council's and its own costs associated with the transfer.
- The lease will be on a full repairing and insuring basis – Bonar Bridge Football Club shall be responsible for upkeep of land to the satisfaction of Highland Council as well as all costs arising from use of the site.
- an undertaking from the Football Club that it will allow continued and unfettered community and school access to, and use of, the playing field, free of charge.
- Any transfer will be subject to existing burdens/conditions in the Council's title to the property (e.g., 3rd Party access rights, etc.). The Council may also impose

further burdens/conditions if they consider this expedient (e.g., economic development burdens, etc). The Council will only transfer/lease property for which it has title to do so; and

- Any other terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Area Chair.

3. Implications

- 3.1 Resource – The recommendation to lease for £1 means the Council forgoes a nominal £995 in annual rent at market value for the playing field, however there is currently no agreement in place and no rent is collected. Furthermore, the potential income would be offset by reduced Council maintenance costs (grass cutting) and the proposed improvements to the playing field.
- 3.2 Legal – CAT is a legislative process set out in the Community Empowerment Act. Public bodies have the right to refuse a CAT application on the grounds that greater community benefit will arise from current or alternative use. However, community bodies have the right of review, first to the public body and then to appeal to Scottish Ministers.
- 3.3 Community (Equality, Poverty and Rural) – Demonstrating community support for the proposed CAT is a crucial element to each asset transfer request. This is set out in the CAT assessment below. There are not considered to be any adverse implications from this CAT request.
- 3.4 Climate Change / Carbon Clever – None
- 3.5 Risk – There are two clear risks to highlight should approval to the transfer be given:
- Ensuring continued school and community access. The risk is mitigated via club undertakings to community and school as outlined in Section 6.1 and that a lease is proposed for the site instead of ownership as originally requested.
 - Potential Highland Council future requirement for site – this is not anticipated in the foreseeable future and is mitigated by leasing the field as outlined in Section 6.2.
- 3.6 Gaelic – None

4. Background

4.1 CAT request

Bonar Bridge Football Club (BBFC) has submitted a CAT request to purchase the 5.2acre (2.1ha) Migdale Playing Field in Bonar Bridge. BBFC have subsequently stated they are willing to consider long lease as an alternative, as long as any lease provides sufficient tenure (minimum 25 years) to enable them to access funding for development purposes.

4.2 Migdale Playing Field

Migdale Playing Field was purchased by Sutherland County Council in 1963 for use as a school playing field. The title contains a right of pre-emption in favour of the original owners whereby they would have first refusal to purchase the field should the Council sell it. The playing field has a capital market value of £9,950 corresponding to an annual market rental value of £995.

4.3 Current use

BBFC plays matches on the main pitch on the playing field and uses the remainder of the field for junior and senior team games and training. The playing field is also used by Bonar Bridge Primary school as its school playing fields which is located nearby and by the wider community for general recreation. Although the field was originally purchased as a school playing field, over the years it has become a community recreation ground and home of BBFC, which built (and has recently refurbished) a clubhouse and changing rooms on neighbouring ground which is in their ownership.

4.4 Purpose of CAT request

The playing field requires renewed and improved drainage to improve the playing surface and the ground conditions of the field in general. The Council has no plans to do this work and is unlikely to be able to do so in the foreseeable future. The CAT will achieve two significant purposes: it will formalise BBFC use of the playing field and secondly enable the club to fundraise for and deliver the required drainage improvements. This would be of benefit to the club, school and wider community. The club will also maintain the field (including grass cutting) and have plans to introduce additional facilities open to all, including outdoor gym equipment.

5. **CAT Assessment**

The CAT application was assessed as follows:

5.1 Benefit to the community (outcomes)

Strong – BBFC will deliver improved recreation facilities

- Improved facility (field and outdoor gym) available all year round to club, community and school delivering broad range of health and wellbeing benefits.

5.2 Capacity to deliver

Strong – BBFC demonstrates relevant experience, knowledge and capacity:

- BBFC has already invested in remedial maintenance and have identified that the area is going to need more than £100k to provide improved drainage, improved playing surface, and fitness opportunities through the installation of an outdoor gym.
- BBFC has recently demonstrated capacity to plan, fundraise and deliver projects by completing a £64K clubhouse refurbishment project.
- The club is managed by a dedicated voluntary Board of Trustees with assistance from general volunteers, including those with experience of project management and supervising works, ground works and procurement.

5.3 Level of community support

Strong – strong community support evidenced for club and clubhouse project:

- BBFC provides the villages of the Kyle of Sutherland with opportunities to participate in sport, support the teams and to develop friendships.
- The club currently attracts over 100 participants per week including junior, primary, secondary, and senior football clubs with the senior team being affiliated to the North Caledonian league.
- Clubhouse refurbishment has generated large community interest in the club.
- BBFC has received 120 letters/ expressions of support (40 provided with application).
- Bonar Bridge Primary School (significant user of the playing field) is supportive, on the basis that access is maintained (School access is taken up to twice per week for PE, daily for daily mile, regularly for other school outdoor activities).

5.4 Sustainability

Strong/ Moderate –BBFC has sufficient funds and demonstrated fundraising experience:

- BBFC can cover running costs through membership subs and sponsorship.
- The current organisational structure is compliant and currently robust.
- BBFC was originally founded in 1968 but ceased in 2010 after 35 years of participating in the North Caledonian league. In 2018 the club was reformed and registered as a Scottish Charitable Incorporated Organisation (SCIO) in 2019., Should the Club fold in the future, a lease would ensure the field reverts to the management of the Council.
- The club is managed by a dedicated voluntary board of trustees with assistance from general volunteers.

5.5 Resourcing

Strong – sufficient resources available/ accessible:

- Club has demonstrated fundraising ability - £64K raised for refurbishment of clubhouse.
- BBFC has confirmed it is willing to pay costs (legal fees etc.).
- Long lease (i.e. >25 years) provides sufficient tenure for funders.
- CAT delivers Highland Council saving on grounds maintenance, and the club delivers improvements the Council is unable to provide.

5.6 Overall assessment

Benefit to the community	strong
Capacity to deliver	strong
Community support	strong
Sustainability	strong/ moderate
Resourcing	strong

6 **Further considerations**

6.1 School and community access

Continued school and community access to the playing field is a key consideration in this case. Whether the Council disposes by sale or lease, Highland Council Legal Service advises that any disposal has to provide vacant possession. The Council cannot sell or lease an asset and then demand continued access. However, BBFC could voluntarily enter into an undertaking with community and school to allow continued access for both. Although this undertaking would not be legally enforceable it would provide reasonable security of ongoing access given the nature of a small community and where there is so much crossover between club, community and school.

6.2 Sale or lease

The club requires security of tenure to access funding for the planned improvements. Funders generally require a minimum 25-year lease as sufficient tenure to grant funding. BBFC preference would be outright purchase, however the following considerations favour the Council leasing rather than sale:

- Leasing retains the long-term option for Highland Council to use the field for school expansion or replacement if required (but not anticipated for the foreseeable future).
- Lease offers long term security / backstop to help underpin continued school and community access in the instance of the access undertaking failing in which case Highland Council would not renew lease after 25 years.

- Lease ensures that should BBFC be dissolved the land is retained by the Council and not potentially lost from the community altogether.
- Lease avoids the potential for the former owner to exercise right of pre-emption.

7. Recommendation

7.1 An officer asset transfer board, including representatives from Legal, Finance, Property & Facilities, Estates, Ward Management and Community Support & Engagement has considered and scrutinised the evidence submitted in support of the transfer request, the potential benefits and risks and would recommend approval of transfer of Migdale Playing Field to Bonar Bridge Football Club on the basis of a 25 year lease at £1 per annum.

The terms of transfer would include:

- the applicant will cover both the Council's and its own costs associated with the transfer.
- The lease will be on a full repairing and insuring basis – Bonar Bridge Football Club shall be responsible for upkeep of land to the satisfaction of Highland Council as well as all costs arising from use of the site.
- an undertaking from the Football Club that it will allow continued and unfettered community and school access to, and use of, the playing field, free of charge.
- Any transfer will be subject to existing burdens/conditions in the Council's title to the property (e.g., 3rd Party access rights, etc.). The Council may also impose further burdens/conditions if they consider this expedient (e.g., economic development burdens, etc). The Council will only transfer/lease property for which it has title to do so; and
- Any other terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Area Chair.

Designation: Executive Chief Officer Communities and Place

Date: 1 August 2022

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Background Papers: