

Agenda Item	10.
Report No	CC/12/23

THE HIGHLAND COUNCIL

Committee: Caithness Committee

Date: 29 May 2023

Report Title: Community Asset Transfers

Report By: Executive Chief Officer, Communities and Place

1. Purpose/Executive Summary

- 1.1 The Community Empowerment (Scotland) Act introduced 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). Once a formal request is submitted, Local Authorities have 6 months to assess the application against a range of potential community benefits and determine whether to grant the request.
- 1.2 Any CAT requests which relate to an asset with a market value of between £10,000 and £100,000, or a market rental value between £1,000 and £10,000 per annum, will come to Area Committee for a decision by local Members.
- 1.3 Two CATS relating to Caithness assets have been received, validated and assessed by officers under the terms of the legislation. This report provides details of these applications and assessments for Members to consider.

2. Recommendations

- 2.1 Members are asked to approve:
 - i. The sale of the Garages and Land at Loch Street, Wick for £1 To St Fergus Bowling Club on the terms set out in the report;
 - ii. The sale of Land / park located opposite Thrumster Primary School for £1, to Thrumster Community Development Company on the terms set out in the report

3. Implications

- 3.1 **Resource** – The resource implications are set out in the report. Should the transfer of land at Loch Street proceed, the Council would forego a potential receipt to the HRA of

£20,000 or a loss of rental income of £1,600 per annum. However, prior to this request, there had been no intention to dispose of the land.

Transfer of the land opposite Thrumster Primary School would result in the loss of an asset with an estimated market value of £38,000. As outlined in the report, given the nature of the asset, this is currently unused grassland and there are no current plans for development and future use is likely to be limited.

- 3.2 **Legal** - Community Asset Transfer (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 by appeal to Scottish Ministers.

There are specific legal duties for Local Authorities in relation to the disposal of HRA property. This includes consultation with tenants and, given the value and level of the proposed disposal, permission must be sought from Scottish Ministers.

- 3.3 **Community (Equality, Poverty, Rural and Island)** - Demonstrating community support for the proposed CAT is a crucial element to each asset transfer request. This is set out in each of the CAT assessments below. There are not considered to be any adverse implications from the CAT requests contained in the paper.

- 3.4 **Climate Change / Carbon Clever** - There are not considered to be any significant implications associated with this transfer, though the Thrumster tree planting would have a positive impact on carbon capture.

- 3.5 **Risk** – Although any CAT assessment considers sustainability, there are risks that any group could fail in the future or choose to dispose of the transferred asset. The proposed right of pre-emption set out for the Loch St and Thrumster sites, have been included to mitigate these risks. In addition, the Community Empowerment Act provides a clause which stipulates how dissolution must be dealt with to ensure any transferred asset remains in community hands, for the benefit of the community, in the event of an organisation ceasing to exist.

- 3.6 **Gaelic** - There are no specific Gaelic implications

4. Sale of the Loch Street Garages to the St Fergus Bowling Club

- 4.1 The St Fergus Bowling Club has requested ownership of the Loch Street Garages. The Club's proposal is to demolish the garages and construct an indoor bowling facility for members of the club and wider community to use. The Club has been in existence for 125 years and has strong ties to the local and wider community. It was set up to promote bowling in the Wick and Caithness community. The Club have a strong background in fundraising and a strong membership with a wide range of skills and expertise.
- 4.2 The Loch Street garages are held on the Housing Revenue Account (HRA) and the site is valued at £20,000. The garages are in poor condition, the land is currently underutilised and fly tipping has become a problem in the area. Prior to the CAT being received, there had been plans to demolish the garages and replace this with parking.
- 4.3 As the garages are held on the HRA a formal consultation with Council tenants in Loch Street was required prior to any disposal. This consultation showed that overall, the majority of tenants were in favour of the proposal. A small number of objections were received citing a concern about the potential increase in the noise levels experienced by residents of Loch Street and regarding the privacy of the properties that directly back onto the site. In support, comments received were that residents said they were pleased to see development within Wick and that they were happy to support a project that is aiming to work within their community.
- 4.4 In recognition that the land is HRA, should the CAT be agreed, a right of pre-emption is proposed on the property to ensure that, in the event the property is sold or otherwise disposed of, or should St Fergus Bowling Club cease to be a Community Transfer Body as defined by the Community Empowerment (Scotland) Act 2015, the Council will seek the option of re-purchasing the asset for the original value of £1.

5. Summary of CAT Assessment

5.1 Community Benefit – Assessed as Strong

The Club proposes to use this site to deliver a short bowling green which will be available all year round to club members delivering an enhanced range of activities including short carpet bowling, darts, exercise classes, social gatherings, dance classes which currently are not available. This improved service including new activities will support the delivery of additional health and wellbeing benefits to the club members. The facility will also be made available to local school children with special needs from Wick High School as a quiet space. Council housing tenants will also be offered discounted membership to compensate for the loss of this asset. The club currently have an outdoor bowling green but this facility would enable them to operate all year round and offer the wider community benefits outlined above.

5.2 Capacity to deliver - Assessed as Strong

St Fergus Bowling club has over 125 years' experience in running a successful club and has good capacity within its membership. The Club states it always operates within its financial limits and with a surplus of funds. It does not borrow to finance its operations. It has developed its clubhouse numerous times over the years including the build, then extension of the clubhouse, erecting floodlights. The club is managed by dedicated members, including some with experience of project management, architecture building, electrical installation, plumbing, supervising works and finance.

5.3 Level of community support – Assessed as Strong/Moderate

The Club has demonstrated strong support from all St Fergus members and other bowling clubs in Caithness, Wick Community Council and Tannach Community Council. They currently attract over 100 regular users with a wide age range up to members in their 90s. The Club has provided emails of support from other local clubs.

5.4 Sustainability – Assessed as Strong

St Fergus Bowling Club was originally founded in 1892 and reports that it has always held a surplus of cash/works within its budget. The club is managed by dedicated members with a wide range of experience, availability and skills.

5.5 Resourcing is Assessed as Strong/Moderate

The total cost of the proposed project is anticipated to be £200,000. This includes legal and planning costs. The club has demonstrated previous fundraising experience – for example, to support previous clubhouse projects. Fundraising is at an early stage for this project but they have approached various wind farms for financial support and initial feedback has been positive with a contributions of £150,000 anticipated. Club members will also provide an in-kind contribution of £25,000 towards the alteration and demolition cost of the project. The Club will undertake fundraising activities aiming to raise £10,000 and they will seek additional sponsorship from local businesses.

6. Overall Summary of the St Fergus Park CAT application and proposed recommendation

6.1 This is solid application from a well established organisation which has the potential to deliver strong physical and mental health benefits to the community. It proposes to provide a facility which the community is lacking and to encourage Membership from a wider group within the community. The development costs are realistic, and the group has a track record of fund raising and delivering development projects.

6.2 As the site is held on the HRA a statutory consultation has been undertaken with tenants. Overall, this showed support for the transfer. Should the transfer be approved by Members, there would be a requirement to seek permission from Scottish ministers for the transfer.

6.3 It is also proposed that a right of pre-emption be included in the disposal conditions allowing the Council the option of re-purchasing the asset for the original value of £1. The application assessment indicates the following strengths/weaknesses:

- Community benefit - Strong
- Capacity to Deliver - Strong
- Level of Community Support - Strong/Moderate
- Sustainability - Strong
- Resourcing – Strong/Moderate

6.4 Based upon the assessment, it is recommended to approve the sale of the Loch Street Garages for £1 to St Fergus Bowling Club, with the following terms applying:

- St Fergus Bowling Club to cover all reasonably incurred property and legal costs, fees and outlays associated with the asset transfer process – both the Council's and its own.

- The transfer is subject to consent from Scottish Ministers given that the land is HRA and that the value of disposal is less than the market value.
- A right of pre-emption be applied so that if the property is sold or the Bowling Club ceases to exist as a defined Community Transfer Body under the Community Empowerment (Scotland) Act 2015 the Council will seek the options of first right of refusal to re-acquire the assets at open market value
- Any transfer will be subject to existing burdens/conditions in the Council's title to the property (e.g., third 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
- Evidence of Planning approval for the proposed development within 1 year.
- Evidence of funding being in place for the proposed development to proceed.
- Noting the work required in identifying appropriate funding and planning permissions required, this offer of sale will remain in place for a period of 5 years
- Any other reasonable terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Chair of Caithness Area Committee.

7. Sale of land / park located opposite Thrumster Primary School to Thrumster Community Development Company

7.1 Thrumster Community Development Company have requested transfer of 5 acres of land comprising Thrumster Playpark, Tennis court and vacant marshland to the east and north located opposite Thrumster Primary School. The group plan to build a new, energy efficient hall which would act as a community hub, café and tourist information point. They plan to upgrade the existing play park and tennis court and improve the general amenity by planting trees and establishing a wildlife trail in the eastern area ('the Whins'). The land is currently largely unused grassland and there are no current plans for its use or development and any future use would be limited.

8. Summary of CAT Assessment

8.1 Community Benefit: Assessed as Strong/Moderate

There are several key aspects to community benefit that would result from the proposed asset transfer:

- Improved amenity for residents of Thrumster and wider area (play park, tennis courts)
- Prospect of upgraded community facilities which are more energy efficient
- Potential revenue generation for the Community Company from the operation of the café which can be used for reinvestment and ensuring sustainability of community assets / local community development

8.2 Capacity to deliver: Assessed as Strong/Moderate

This is a relatively new group, formed in 2019 and incorporated as 2-tier SCIO in 2021. The group have over 50 members, with significant volunteer support. The group has had previous success with fundraising for local grounds maintenance. It already cuts grass at the north of the park and maintains village green area on behalf of HC Amenities, as well as other areas of land which do not receive upkeep by Amenities.

The group have a clear understanding of project planning and requirements for support from professional services and amongst their directors they have a range of skills/experience around governance, project planning and capital projects.

8.3 **Community Support: Assessed as Strong**

The proposal was developed in response to community engagement: including:

- 'open ideas day' in Feb 2020 at existing village hall - a new hall and landscaping were top local priorities (94 responses).
- Proposals for location informed by subsequent engagement in 2021, with 54 residents commenting on potential facilities.
- Ongoing local engagement on proposals through FaceBook and local notice board.
- Anecdotal support from existing hall user groups: W.I., Primary School, Crafts Group and after school club.

8.4 **Resourcing – Assessed as Moderate**

The group have an offer of an SSE Beatrice Fund award of £50k for architectural design and other professional support conditional on approval of a CAT. This award will also support business planning for development and operation of the community hub. The current grant offer notes that costs must be incurred no later than end of July 2023 and the group is in the process of agreeing an extension with the funder. Due to the preliminary stage of project planning, exact capital costs of development remain to be determined. In terms of ongoing costs, the group's aspiration is for the facility to be self-sustaining.

Transfer of this land will result in a minor revenue saving to Highland Council Amenities Service (limited grass cutting) and the removal of responsibility for playpark maintenance and prospective improvement.

8.5 **Sustainability – Assessed as Moderate**

The group's business plan still requires to be prepared and the offer of funding to undertake this from SSE is conditional on approval of CAT.

Replacement of the village hall at this site is intended to improve sustainability of activities available at the community facility, by reducing ongoing costs. The aspiration is for the facility to be self-sustaining.

9. **Overall Thrumster Park Summary and Proposed Recommendation**

9.1 The proposal is an ambitious one and significant funds are required to realise the ambition. However, if successful, the proposal would utilise a currently unused grassland area and bring significant benefit to the small community of Thrumster providing additional facilities within the local community.

9.2 For this reason, it is proposed that the CAT be supported but with conditions of transfer as outlined below, that include capital funding being in place prior to transfer.

It is recommended to approve the sale of Thrumster Park to Thrumster Community Development Company for £1 with the following conditions of transfer:

- Thrumster Community Development Company covers all reasonably incurred property and legal costs, fees and outlays associated with the asset transfer process – both the Council's and its own.
- 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 property for which it has title to do so.

- Evidence of Planning approval for the proposed development.
- Evidence of funding in place for the proposed development to proceed.
- Noting the work required in identifying appropriate funding and planning permissions required, this offer of sale will remain in place for a period of 5 years
- Any other terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Chair of Caithness Area Committee

Designation: Allan Gunn, Executive Chief Officer, Communities and Place

Date: 23 May 2023

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