

The Highland Council

Agenda Item	13
Report No	CP/33/23

Committee: Communities and Place

Date: 29 November 2023

Report Title: Community Asset Transfer Request

Report By: Executive Chief Officer, Communities and Place

1. Purpose/Executive Summary

- 1.1 The Community Empowerment (Scotland) 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. 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 Where Council assets are over the value of £100,000, decision on the transfer of any asset rests with the Communities and Place Committee. This report asks Members to consider and agree the Community Asset Transfer (CAT) request received from Lochaber Rugby Football Club for sale of the Banavie Rugby Pitch, Car Park and Play Area for £1.

2. Recommendations

- 2.1 Members are asked to agree the following Community Asset Transfer request:
 - Sale of the Banavie Rugby Pitch, Car Park and Play Area to Lochaber Rugby Football Club for £1, based upon the terms set out in the report.

3. Implications

- 3.1 **Resource:** The Club currently pays no rent to Highland Council and is requesting 100% discount on market value which is estimated at £105,000. There is little additionality from the transfer, but the Council have no plans to redevelop the site and is unlikely to be able to as this is a recognised sports pitch and there are restrictions on development on such sites. Since 2016/17, the Club has paid £1,100 per year to Highlife Highland (HLH) for the use of Banavie Pitch as well

as training ground use at King George V Park and Black Parks (both in Fort William). HLH has confirmed it has no objection to the transfer taking place.

An Asset Transfer officer group including representatives from Legal, Finance, Property and Communities and Place has considered and scrutinised the CAT Request and supporting evidence. The request is recommended to proceed as the wider community benefits would outweigh the negligible benefit from the Council retaining the site.

- 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.
- 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 the CAT assessment below. There are not considered to be any adverse implications from the CAT request contained in the paper.

One of the Council's key priorities over a number of years has been to support communities to develop their own capacity and deliver their own priorities. The CAT programme contributes towards this. The CAT process in Highland continues to support community led regeneration, social enterprise, projects to increase local participation and engagement, health and wellbeing, redeveloped facilities and delivery of new and improved local services, including visitor management facilities.

- 3.4 **Climate Change / Carbon Clever:** There are not considered to be any implications associated with this transfer.
- 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 right of pre-emption set out for this transfer has been proposed 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 **Health and Safety (risks arising from changes to plant, equipment, process, or people):** There are not considered to be any implications associated with this transfer.
- 3.7 **Gaelic:** There are not considered to be any implications associated with this transfer.

4. Sale of the Banavie Pitch, Car Park and Play area to the Lochaber Rugby Football Club

4.1 Background

Ownership of the Banavie Pitch, Car Park and Play area has been requested by Lochaber Rugby Football Club (LRFC) which is a Company Limited by Guarantee (SC517055). The Club has leased the site (which extends to a slightly greater area than that requested) since 1 April 1984.

4.2 There are no additional proposed benefits proposed at this stage as an outcome of transfer, but a transfer would support the continuation of existing activity under alternate basis of tenure. This would also enable self-determination for the group and control of the asset they are using, and they have indicated the potential for future development, although the detail at this stage has not been articulated. Increased community ownership is a Scottish national outcome and priority for Highland Council.

4.3 There has been an ongoing dispute between the Club and Council about the repair of a culvert, manhole and pipe which runs under the pitch. However, Highland Council has now undertaken to carry out the necessary repairs and any transfer would not affect this.

5. Summary of CAT Assessment

5.1 **Community Benefit: Moderate** - The Club has recently developed an ambitious development programme - [General - Lochaber RFC Documents](#) and in the longer term, this transfer would support delivery of this programme. The club also believes that ownership, without need for landlord's permissions, will enable more timely and effective pitch maintenance and a clearer route for other community groups to seek permission for use of the grounds. (HLH regards the pitch as a single-use Rugby facility and has no plans to promote wider use).

5.2 The pitch is currently in rapidly deteriorating condition, which will require significant investment by the Club to achieve the superior conditions necessary for rugby. The Club has indicated support for wider community use and intends to offer bookings at low charges (e.g. Scouts, toddler athletics group). Bookings currently require coordination between HLH and the Club, which has not proven effective in recent years. Transfer would simplify this booking process.

5.3 The transfer of the vacant land at the former play area will allow it to be brought back into effective use for community purposes. There is no play equipment on the site and no intention that there would be in the future therefore no unintended consequences.

5.4 **Capacity to deliver: strong**

The club is a sitting tenant with little proposed new activity as a result of transfer, but they do have the skills necessary to bring an outdoor community asset into even more effective sporting use.

- 5.5 The Club already carries out the majority of grounds maintenance on a voluntary basis. The Club house was previously built and is operated by the Club which is evidence of effective asset management.
- 5.6 **Sustainability: strong**
The Club's ability to sustain the facility is supported by membership fees and volunteer ground maintenance activity. It has seen strong growth in membership recently, particularly in girls' / women's participation.
- 5.7 Although currently not required to, the club has willingly been accepting increasing responsibilities for ground maintenance over a number of years. Highland Council's Amenities team carries out the grass-cutting and lining of the pitch, however the Club does all the other grass-cutting, fertilising, seeding and general maintenance as well as car park repairs.
- 5.8 **Resources: moderate**
The Club currently pays no rent and is requesting 100% discount on market value. There is low additionality from the transfer, but the Council have no plans to redevelop the site and are unlikely to be able to as this is a recognised sports pitch and there are restrictions on development on such sites.
- 5.9 There is limited financial benefit to the Council from transfer given that the majority of maintenance is undertaken by the Club, the main financial benefit is related to the need to no longer cut the grass and line the pitch.
- 5.10 Pitch improvements are currently aspirational, pending the CAT decision. There are no prospective funders currently identified but the Club has recently put in place an ambitious development programme. Securing grant aid to fund improvements will typically require security of tenure – whether an updated long-lease or ownership. The current lease under tacit relocation would not provide this unless renewed for an agreed term.
- 5.11 The transfer would result in a reduced income to HLH - £1100 pa. – which is paid by the Club since 2016/2017 for the use of Banavie Pitch and training at King George V Park and Black Parks.
- 5.12 **Community engagement and support for the request: moderate**
Letters of support have been provided by Kilmallie and Fort William, Inverlochty & Torlundy Community Councils, as well as the local primary and secondary schools. These endorse the Club's engagement of young people in sporting activity.

- 5.13 Through the consultation process some concern has been expressed that the facility remains available for community use – the club have provided reassurance of this and it is proposed as a condition of transfer.
- 5.14 Two **representations** received during the public notice period concerned protecting the public value and community use of the land, if transferred. As noted above, a right of pre-emption is proposed to protect the asset into the future.

6. Overall Summary

- 6.1 This is a solid application from a long-standing local Rugby Club which has the potential to deliver strong benefits to the community through increased access to sports facilities with a considerable focus on increasing access by young people. The Club has demonstrated a strong commitment to taking on and improving this asset for the benefit of the wider community.
- 6.2 The title investigation has highlighted that the land requested falls under two separate acquisitions by the Council. The recommendation is that the Rugby Club takes on the entirety of the land held under their current lease. The recommendation and accompanying conditions reflect this.
- 6.3 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 LRFC 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.
- 6.4 The proposal has been evaluated and the scores suggest that the request should be **agreed**:
- *Community Benefit: moderate*
 - *Capacity to deliver: strong*
 - *Community support: moderate*
 - *Sustainability: strong*
 - *Resourcing: moderate*

7. Recommendation:

- 7.1 Sale of the Banavie Rugby Pitch, Car Park and Play Area to Lochaber Rugby Football Club for £1. Terms of the transfer would include:
- Land transferred will include all land currently under the terms of the Club's lease
 - The Club will cover all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.
 - Community access to use of the facility must be maintained.

- 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.
- 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 LRFC 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

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

Designation: Executive Chief Officer Communities and Place

Date: 9 November 2023

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