

The Highland Council

Agenda Item	12
Report No	CP/24/23

Committee: Communities and Place

Date: 31 August 2023

Report Title: Annual Community Asset Transfer Report 2022/23

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). Community ownership of assets has an important role in supporting people to create local opportunities and transform their communities, responding to local challenges by taking control of land and buildings where they live. It is therefore a key priority for the Council to support greater community ownership.
- 1.2 The Act places a requirement on relevant authorities, including local authorities, to publish an annual report on community asset transfer activity for each financial year for the Scottish Government. Key messages for 2022/23 include:
- The Council received a total of **8** new asset transfer requests.
 - The Council agreed to **4** asset transfer requests and refused **0** requests during the year 2022/23.
 - **3** Community Asset Transfers were completed during 2022/23. This is the legal conclusion of a lease agreement or transfer of ownership, following prior approval of the CAT by committee.
 - Since the asset transfer legislation came into force in 2017, the Council has transferred **25 assets** and approved **48 requests** (this reflects approvals for which conveyancing is ongoing).
- 1.3 This report summarises community asset transfer activity in Highland during 2022/23 and the annual community asset transfer report, for submission to the Scottish Government, can be found in Appendix 1.

2. Recommendations

- 2.1 Members are asked to:
- **Consider and agree** the annual report on Community Asset Transfer as detailed in the report and at Appendix 1, for submission to the Scottish Government.

3. Implications

3.1 **Resource implications:** the report outlines that the total value of discount on capital assets legally agreed for transfer during 2022/23 was £63,999. Of the 4 assets agreed for transfer during 22/23, a total annual discount of £28,159 from leases was agreed, and forgoing a potential capital receipt of £24,850, which represents the value of the asset that was transferred for ownerships. This highlights the strong support the Council continues to demonstrate for enabling and encouraging community ownership.

3.2 **Legal implications:** 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 to appeal to Scottish Ministers.

3.3 **Community (Equality, Poverty and Rural) impacts:** 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. Since the asset transfer legislation came into force in 2017, the Council has transferred 25 assets and approved a total of 48 requests (this reflects approvals for which conveyancing is ongoing).

3.4 **Climate Change / Carbon Clever and Gaelic implications.** Normally when assets are transferred, they are improved by community bodies. This often makes assets more energy efficient with consequential reductions in carbon emissions.

3.5 **Risk implications:** a key consideration in the assessment of any asset transfer is the sustainability of the proposal. This is both to protect the public asset and ensure ongoing benefit to the community from effective use of the asset. There are however risks that any group could fail in the future or choose to dispose of the transferred asset. Economic development burdens and at times rights of pre-emption contained within the terms of transfers of ownership, helps protect the Council and public money against this and 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:** there are no specific health and safety implications as a result of the report.

3.7 **Gaelic:** there are no specific Gaelic implications as a result of the report.

4. Background

- 4.1 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). This mechanism came into force in January 2017. However, Highland Council has a long tradition of supporting community use of land and buildings, which predates the Empowerment Act. Once a completed request is submitted from an eligible community group, the Empowerment Act stipulates that Local Authorities have six months to assess the application against a range of potential community benefits and determine whether to grant the request.
- 4.2 Community ownership of assets has an important role in supporting people to create local opportunities and transform their communities, responding to local challenges by taking control of land and buildings where they live. It can also support bringing surplus or underutilised assets back into improved use, for the benefit of the community. It is therefore a key priority for the Council to support greater community ownership.
- 4.3 The Community Empowerment Act places a requirement on relevant authorities including local authorities to publish an annual report on community asset transfer activity for each financial year and to submit this to the Scottish Government. The draft report is attached as appendix 1 and Members are asked to consider and agree this for submission to the Scottish Government.

5. Scottish Government Annual Community Asset Transfer Report

- 5.1 The report in Appendix 1 contains a detailed picture of community asset transfer activity in Highland during April 2022 to March 2023.
- 5.2 The report highlights:
- The Council received a total of **8** new asset transfer requests.
 - 7 were requests to be considered under the Community Empowerment Act and 1 request to lease was handled under general property disposal regulations
 - 5 of the requests were for ownership and 3 for lease of land or buildings
 - The Council agreed to **4** asset transfer requests and refused **0** requests during the year 2022/23. This is lower than in 2021/22 but similar to in line with the previous year. Of those agreed in 2022/23:
 - 3 were for lease and 1 for ownership
 - 3 were handled in terms of the Community Empowerment Act and 1 under Property Disposal Regulations
 - The discounts given across all CATs agreed ranged from 90-100%
 - Of the four transfers agreed:
 - One relates to the development of a community garden in Waternish in Skye

- One was from a group for land that are developing a Men's Shed in Muir of Ord
 - One was from a football club in Bonar Bridge that already leased land but wished ownership to enable improvements to the ground and facilities
 - The final one relates to the transfer by lease of the former Inverness Royal Academy pitches to the Inverness Caledonian Thistle Community Development for youth, women's and disabled football activity in Inverness.
- **3** Community Asset Transfers were completed during 2022/23. This is the legal conclusion of a lease agreement or transfer of ownership, following prior approval of the CAT by committee.
 - Since the asset transfer legislation came into force in 2017, the Council has transferred **25 assets** and approved **48 requests** (reflecting both withdrawals following approval and approvals for which conveyancing is ongoing).

- 5.3 The purpose of community asset transfer within community empowerment legislation is to enhance and increase community benefit outcomes in local communities through improved use of publicly owned assets. This can involve public bodies foregoing some or all financial value of assets to support delivery of the community benefit arising from transfer (awarding discounts on market value or market rental value). The **4** asset transfers agreed in 2022/23 present a positive picture of the Council supporting communities and agreeing to discounts that forfeit potential income from leases totalling £28,159 at market rental value and a potential capital receipt of ££24,850 for the asset where ownership was transferred. For each, it was assessed that the level of wider community benefit that would be derived as a result of the transfers significantly outweighed the potential rents received.
- 5.4 A broad variety of transfers through the CAT process has supported community led regeneration, social enterprise, projects to increase local participation and engagement, health and wellbeing, redevelopment of facilities and new and improved local services, including visitor management facilities. Community led improvement of facilities for visitor management through the CAT process has made a particular contribution to alleviating pressure from large numbers of tourists on fragile, rural communities across Highland.
- 5.5 Community facilities and green space remain the most common use of assets transferred through CAT. The vast majority of these proposals include a significant component of revenue generation associated with operation of the asset – e.g., rental income from sub-letting of facilities; income from toilets, parking, waste facilities, trading, borrowing against the asset. This supports maintenance and support of the asset and in many cases delivery of wider community priorities. Community asset transfer is therefore an important part of delivering wider community wealth building approaches. This will be reflected in the development of the Council's community wealth building strategy.

- 5.6 In addition to the core questions contained within the Community Asset Transfer annual report, for a second year, the reporting template includes a series of questions to support the Scottish Government's review of the Community Empowerment (Scotland) Act 2015. The questions included for 2022/23 remain the same as last year and whilst the Council's responses have been reviewed, the matters and issues raised last year remain current and therefore the responses to these questions remain the same.

Designation: Executive Chief Officer Communities and Place

Date: 10 August 2023

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Manager
Alison Clark, Head of Community Support & Engagement

Appendix 1: Scottish Government Annual Community Asset Transfer Report

Appendix 1**Asset Transfer Request
Reporting Template 2022/23 for Relevant Authorities**

Section 95 of the Community Empowerment (Scotland) Act 2015 requires relevant authorities to produce an annual report on Asset Transfer Request activity and publish this no later than 30 June each year.

Following stakeholder feedback and in response to asset transfer evaluations, this template has been created to help gather asset transfer data for the period 1 April 2022 to 31 March 2023. Information provided will help inform policy and practice at local and national level as the data will be collated and shared by the Scottish Government's Community Empowerment Team. However, it will be for each relevant authority to make their own annual report publicly available by 30 June 2023, whether using this template or not.

Please provide information in sections below and email completed template by 30 June 2023* to community.empowerment@gov.scot

**note permission given to extend deadline to align with committee reporting.*

Section One – Relevant Authority Information

Organisation: Highland Council	Address: Highland Council HQ, Glenurquhart Rd , Inverness
Completed by: Pablo Mascarenhas	Role: Community and Democratic Engagement Manager
Email: cat@highland.gov.uk	Telephone: 01463 702247
Date of completion:25/07/2023	
Are you the Asset Transfer Lead Contact for the organisation: Yes	
If not please provide the name, job title and email address for the lead contact for any queries:	

Section 2: Asset Transfer Data in 2022/23

2.1 Please complete the following table for the 2022/23 reporting period :

Total applications received	Number of successful applications determined	Number of unsuccessful applications determined	Number received and yet to be determined	Number received prior to 2022/23 and yet to be determined
<p>8</p> <p><i>Including requests which were ineligible due to inappropriate group governance, those subsequently withdrawn by the Community Transfer Body making the request and those for which an alternative agreement was reached out with the Empowerment Act (e.g. access agreements).</i></p>	<p>4</p> <p>Of which, - 3 in terms of the Empowerment Act - 1 out with the Act</p> <p><i>(Including applications received in the previous year and determined during 2022/23).</i></p>	<p>None</p>	<p>5</p>	<p>1</p>

2.2 Please provide details of Asset Transfer Requests received which resulted in transfer of ownership, lease, or rights from your relevant authority to a community transfer body in 2022/23:

Key:

- **5** requests received during the year and no transfer agreed during 2022/23 – highlighted in purple.
- **3** requests received during the year and transfer agreed during 2022/23 - highlighted in orange.
- **1** request received in previous years but agreed in 2022/23 - highlighted in green.
- **3** requests agreed prior to 2022/23, subsequently legally completed during 2022/23 - highlighted in blue.
- **11** requests agreed prior to 2022/23, but where the legal process is not yet agreed - highlighted in yellow

Community Transfer Body	Request Accepted	Decision Agreed	Transfer Completed	Description of asset / area transferred	Amount Paid	Discount Given	Current Discount Agreed/Sought	Type of Transfer	Purpose of Transfer
Raddery House Limited	03/03/2023	not determined		Former Black Isle Education Centre and Raddery Woodland	N/A			Ownership	Develop land for community activities
Thrumster Community Development Association	30/11/2022	Not determined		Thrumster Swing Park	£1	£24999	£24,999	Ownership	Building of a new village hall
Waternish Community Garden	29/11/2022	29/03/2023		Land at rear of Waternish Hall	£10 pa	(£90 pa)	£450	5 year Lease	Community Garden
Balvonie Parks Association	18/11/2022	not determined		Land adjacent to Braes of Balvonie				Ownership	Create a community woodland/orchard
Melvich Community SCIO	15/11/2022	not determined		Portskerra Play Park				Ownership	Ownership of play park

Muir of Ord Development Trust	25/08/2022	15/12/22		Land at southern end of Ord Industrial Estate	£1	£2074 pa (20 years)	£41,480	Lease	establishment of a Men's Shed
Inverness Thistle Community Development	29/07/2022	25/11/2022		Playing fields adjacent to Inverness Royal Academy	£1 annual	£25k pa	£624,975	Lease 25 years	Regenerate and upgrade the playing fields and facilities
Melvich Community SCIO	04/07/2022	not determined		Melvich public toilets	N/A			Ownership	Demolition & replacement
Lochcarron Leisure Centre	21/12/2021	29/03/2022	16/01/23	Former nursery Portacabin	£1,000	£15k value	£14,000	Transfer out with Act (ownership)	Redevelopment as a fitness facility
St Fergus Bowling Club	19/11/2021	Not determined		Garage site at Loch Street	£1	£19999	£19,999	Ownership	Develop indoor bowling facilities
Dunbeath & District Centre	06/10/2021	30/03/2022	Deferred sale to 2027 ref external funding	Land south west of Neil Gunn Road	£1	£100k value 100%	£99,999	Ownership	Developing a new health and wellbeing centre
Bonar Bridge Football Club	07/09/2021	30/08/2022		Migdale Playing Fields	£1 pa 25 years	£995pa	£24,850	Ownership	Pitch improvement
Kingussie Camanachd Club	14/06/2021	29/09/2021	10/02/23	Market Stance Playing Field	£1	£1 value None		Rental	Upgrade Facility
Outdoor Access Trust for Scotland	01/04/2021	14/06/2021		Stac Pollaidh Car Park	£1	£2k pa lease 100%	£49,975	Transfer out with Act (lease)	Improve and extend parking

Road to the Isle Facilities Group	26/03/2021	20/10/2021		Tougal Car Park and Toilets	Nil	£1pa value 100%	£1	Rental	Improve and extend parking
Raasay Development Trust	21/03/2021	30/08/2021		Raasay New Ferry Terminal	£1	£1550 pa rental value 100%	£153,351	Rental	Redevelopment as a part of community pontoon project
Grantown Initiative	27/11/2020	23/03/2022		Burnfield Public Toilets	£1	£7k value 100%	£6,999	Ownership	Reinstate the public conveniences
Inverness Rowing Club	07/01/2020	17/09/2020	06/10/22	Land at former Torvean Gold Club	£1	£50k value 100%	£49,999	Ownership	Clubhouse Development
Ormlie Community Association Ltd	16/02/2019	27/08/2019		Ormlie Community Centre	£1	£9k pa 100%	£224,975	Rental	Security of tenure to sustain and expand community facility
Seaboard Community Polytunnel Group	21/09/2018	26/02/2019		Land at Balintore Harbour Green	£1 pa 5 years	£240 pa	£1195		Develop a community polytunnel
Helmsdale and District Development Trust	18/09/2018	16/02/2019		Coupers yard	Nil	£30k value 100%	£30,000	Ownership	Development of small industrial spaces; campervan 'aire'; glamping pods
Strathnaver Museum	01/03/2018	12/06/2019		Bettyhill Visitor Centre	£1	£70k value 100%	£69,999	Ownership	Development of café for museum visitors
Seaboard Memorial Hall	17/11/2017	18/09/2018		Balintore Toilets	£1	£9500	£9499	Ownership	Demolish and rebuild structure

2.3 Please provide details of Asset Transfer Requests that went to a relevant authority appeal or review which were concluded in 2022/23:

NONE

Name of Community Transfer Body	Was the Asset Transfer Appeal/Review accepted? (Y/N)	Why was the Appeal/Review accepted/refused? <i>Please provide details of the asset transfer request and reasons for your decision.</i>
None		

Section Three – Promotion and Equality

3.1 Please provide information on any action you have taken to promote the benefits of asset transfer or any support provided for communities to engage with the Asset Transfer Request process.

- Support meetings between officers and prospective applicants, to advise and support preparation of evidenced applications.
- Direct support from Community Support Co-ordinators to advise groups and build readiness and capacity to take on assets to support local aims and objectives
- Signposting of external support services and guidance, including Development Trusts Association – Community Ownership Support Service, Highlands and Islands Enterprise, Highland Third Sector Interface
- During 2021/22 a revised approach to Community Asset Transfer was agreed to expedite requests and improve the process. This included a stronger Expression of interest phase and taking forward CAT outwith the empowerment act dependent upon the group's circumstances. This approach has been implemented during 2022/23.

3.2 In particular what action has been taken to support disadvantaged communities to engage with the asset transfer process?

Community asset transfer forms an integral part of Highland Council's approach to community planning, community development and working with and involving our communities. Locality plans have been developed across communities with the highest levels of inequalities and the Council's approach to Place Planning ensures continued due regard for reducing inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. A key part of this is understanding the asset requirements of the public, voluntary and community sectors. Local community partnerships provide a support network for communities working toward community asset transfer, central support officers provide specialist development, legal and property guidance and area-based officers provide hands-on guidance to community partners.

Section Four – Additional Information

4.1 Please use this space to provide any further feedback not covered in the above sections.

Section 5 – Community Empowerment Act Review

The following questions relate to the Scottish Government review of the Community Empowerment (Scotland) Act 2015. We would value your feedback as a relevant authority concerned with part 5 (asset transfers) of the Community Empowerment (Scotland) Act 2015. Please note, any feedback offered in Section 5 would only be used for the purposes of the review, and all comments would be anonymised.

5.1 Has the legislation made things easier or more difficult to work with communities on asset transfers? Please provide some comments on your experiences as a relevant authority engaging with this legislation.

Community groups' ability to obtain use of public land and buildings has been enhanced by introduction of a right of response to requests from eligible groups and a single point of contact at Highland Council to coordinate requests. However, engagement with other Scottish Local Authorities through the Community Ownership Support Service has indicated a significant trend across Local Authorities to regard CAT 'within the Act' as just one tool for disposal of assets and supporting community ownership. This enables the Council to be more responsive to the specific needs of groups but also reflecting that the definition of community bodies under the Act is limited and not all groups qualify under that definition. As well as reacting to requests for CAT, work is planned to take a more pro-active approach to offering communities ownership of

surplus assets. Whilst the Act is welcome and important, taking this broader approach gives greater flexibility to respond to the needs of communities.

5.2 Where can things be further improved, and what needs to change?

Support and capacity building for groups – a partnership approach to support is crucial to enable groups to take on assets. Several ambitious projects associated with CAT requests have arisen from community groups with professional development officer capacity, but volunteer led projects have sometimes struggled with capacity to engage with the administrative demands of the CAT process. Often, those bodies who have been successful in securing development officer funding from central/national funds, are already those with significant capacity. Consideration should be given to targeting national/central funding at areas and groups that are less developed and also those which do not have independent financial means e.g. windfarm funding.

Sources of post-acquisition grant support - community transfer bodies have highlighted particular challenges around limited availability of flexible financial sources to fund redevelopment of assets following transfer. This has also been highlighted as a concern at a regional level by public sector partners and nationally by DTAS-COSS. The Council has created a Community Loans Fund and supports groups through a range of local funding opportunities but a national fund for this purpose would be welcome.

Independent Legal Support - one of the challenges identified by community bodies is the time taken to conclude transfer requests. Whilst decisions on transfer must be agreed or refused within 6 months, the time taken between legal teams to fully conclude a transfer can take 12-18 months. These legal restraints make it more difficult for communities to respond to urgent development requests. Expert independent legal support provided through a body focused and that understands this area of work would be beneficial for groups.

Managing expectations – community asset transfer in itself is step one. This is the beginning of a legal process that does take time to complete. Additional factors such as the requirement for planning permission, access to external funding and business planning can all result in a transfer taking time to conclude. Whilst the Council has taken steps to assist groups to understand the complexities around this, and also put additional steps such as a title check in at an earlier stage to help pre-empt later issues, there is a need for greater national promotion around the time required for legal processes to conclude beyond the initial 6 months.

Flexibility in approach – as noted to question 1, Highland Council, as like many others, have adopted a broader approach to asset transfers than just those under the Community Empowerment Act. This is helpful and gives greater flexibility. It would be helpful to acknowledge that transfer can and do happen in different ways and that these approaches are outlined in guidance to community organisations and public bodies.

National Approach to Economic Development Burdens – it is a normal approach to seek to apply an Economic Development Burden of 20+ years to a transaction where the recipient is a community body. This is to protect the value of the asset and ensure it (or the value) remains in community control. The placing of burdens or other protections is recommended to authorities in the Scottish Government guidance offered to support Community Asset Transfer under the Community Empowerment Act. It is also key to ensuring that the Council meets its Best Value obligations and protects public resources. However, a number of external funding bodies – some acting on behalf of the Scottish Government – will now refuse to provide funding to groups that have an EDB greater than 5 years. This places Local Authorities in a contradictory position and requires clarification at a national level.

5.3 Are you aware of what support is available to you when engaging with this legislation, and how you can access this? Please provide comments where possible.

Officer support from COSS and Highland TSI has been invaluable to Community Transfer Bodies preparing for CAT.

In relation to Local Authorities, an officer network would be beneficial to share learning and seek improvements to the CAT process.

5.4 What would you like to see now, to further empower Scotland's communities?

In relation to asset transfer specifically, please see 5.2 - enhanced availability of start-up and capital development funds to support the delivery of community projects following acquisition of land and buildings and expert legal support for community organisations.

Please email the completed template by 30 June 2023 to community.empowerment@gov.scot

If you have any queries please contact Malcolm Cowie, Asset Transfer Policy Manager at Malcolm.cowie@gov.scot