

## HIGHLAND COUNCIL

<b>Agenda Item</b>	<b>8</b>
<b>Report No</b>	<b>SCC/12/19</b>

**Committee:** Sutherland County Committee

**Date:** 22 May 2019

**Report Title:** Dornoch Common Good Leases –  
Assignment of Lease for Dornoch Caravan Park  
Homologation of Lease for Sutherland Agricultural Society

**Report By:** Depute Chief Executive/ Director of Corporate Resources  
and Acting Head of Policy

### **1. Purpose/Executive Summary**

- 1.1 This report provides information on the proposed assignment of the lease for Dornoch Caravan Park to a new operator and details of a lease of Dornoch Common Good land to Sutherland Agricultural Society.

### **2. Recommendations**

2.1 Members are asked to:

- I. Approve the assignment of the lease for Dornoch Caravan Park to Dornoch Caravan and Camping Park Ltd, subject to the fulfilment of the Council's conditions and on any other of terms as agreed by the Depute Chief Executive/ Director of Corporate Resources and the Acting Head of Policy.
- II. Homologate the lease of 0.12ha of Dornoch Common Good land to Sutherland Agricultural Society.

### **3. Assignment of lease for Dornoch Caravan Park**

- 3.1 Members are referred to Sutherland County Committee report Dornoch Common Good – Assignment of Dornoch Caravan Park Lease. Report No SCC/05/19 dated 8 February 2019 by the Depute Chief Executive/Director of Corporate Development and Acting Head of Policy.
- 3.2 Members will recall that the report recommended approval the assignment of the lease for Dornoch Caravan Park, from the Executors of the estate of the late William Macrae Snr. to Dornoch Caravan and Camping Park Ltd, subject to the fulfilment of the conditions outlined by the Council and on any other of terms as agreed by the Depute Chief Executive/ Director of Corporate Resources and the Acting Head of Policy. The lease terms and conditions are unaffected by the assignment and transfer unchanged to the new operator. Members will also recall that, under the terms of the lease, the Council cannot unreasonably refuse an assignment request.
- 3.3 The Council's conditions, which were outlined in the February Committee report, are as follows:
- Rent to be paid and up to date at the proposed date of assignment.
  - Dilapidations – all repairs required under the terms of the lease to be made good, or a schedule for completion and a transfer of that responsibility to new leaseholder agreed.
  - Credit check/ bank reference for proposed leaseholder(s).
  - Evidence of sufficient funds to cover rent.
  - Business plan for the operation of the business.
  - Personal financial guarantees from the company directors (only required if Dornoch Caravan Park is leased to a company rather than named individuals).
- 3.4 As the conditions had not all been fulfilled by the time of the February Committee, Members decided to defer the decision on the assignment of the lease to 22 May 2019 Committee to allow the Executors and prospective tenants to fulfil the outlined conditions.

### **4 Update**

- 4.1 Since Committee met in February, the proposed tenants have been operating Dornoch Caravan Park as agents for the Executors and, following some initial teething problems, appear to have settled into the role without any significant ongoing issues. Furthermore, substantial progress has been made with achieving the conditions, as follows:
- 4.2 Arrears  
All rent arrears have now been paid in full.
- 4.3 Dilapidations  
Some work has already been carried out on the site. The prospective tenants have submitted a maintenance plan outlining a timetable for works which will address the issues outlined in the dilapidations report. The maintenance plan covers the next four years, with the majority of the works completed in the first year. The maintenance plan has been assessed by the Council's Area Property Surveyor who is satisfied with the proposals. The Council will inspect progress at the end of the season and at regular interval thereafter to ensure that works are completed on time and to a satisfactory standard. Members are reminded that if the tenants fail to address dilapidations when

notified, the Council has the power to irritate the lease.

#### 4.4 Credit check

Credit checks have been received for the prospective tenants (as individuals) and assessed as satisfactory. Similarly, a check revealed no outstanding debts to Highland Council.

#### 4.5 Evidence of sufficient funds

The prospective tenants have been asked to provide a bank reference confirming the company has access to sufficient funds to cover the rent for the next year. They have agreed to provide this, but at the time of writing the report the bank reference had not been received. Members will be provided with an update at Committee.

#### 4.6 Business plan

A satisfactory business plan has been submitted.

#### 4.7 Directors personal guarantees

Normally the Council requires prospective tenants of commercial properties to provide 3 years' worth of trading accounts. Where these are not available (as in a new company) the company directors are asked to provide directors personal guarantees. These provide reassurance to the Council, because any company liabilities arising from the lease will be covered by the directors in the event of the company being unable to meet its liabilities to the Council. The prospective tenants have provided directors personal guarantees.

### **5 Homologation of lease – Sutherland Agricultural Society**

5.1 Sutherland Agricultural Society requested a lease of Dornoch Common Good land for a shed to store equipment for the annual Sutherland Agricultural Show, which is held on Dornoch links. An area of 0.12ha adjacent to the aerodrome was identified (see Appendix). A lease on 99-year terms at £800pa was agreed. The lease was concluded in March 2019.

5.2 Dornoch Community Council considered and supported the lease at their meeting in November 2016. East Sutherland and Edderton Ward Members agreed the lease in February 2018, however the lease was never formally reported to Sutherland County Committee for approval during transition between Ward Managers March/April 2018.

### **6 Recommendations**

#### 6.1 Dornoch Caravan Park

At the time of writing the report the Executor has not fulfilled all the stated conditions, although significant progress has been made, with the only outstanding item being the bank references, which the prospective tenants have agreed to provide. In order not to delay the assignation of the lease, Members are recommended to approve the assignation of the lease subject to the fulfilment of the conditions outlined above (section 3.3) and on any other of terms as agreed by the Depute Chief Executive/ Director of Corporate Resources and the Acting Head of Policy.

#### 6.2 Sutherland Agricultural Society

Members are recommended to homologate the lease of 0.12ha of Dornoch Common Good land to Sutherland Agricultural Society as outlined above.

### **7 Implications**

- 7.1 Resources – Assigning the lease will formalise the existing agency arrangement, securing income for Dornoch Common Good Fund.
- 7.2 Legal – Under the terms of lease the Council cannot unreasonably refuse a request to assign the lease. There is legal precedent / case history which defines “reasonable” and the Council’s conditions fall within that precedent / case history. Therefore, once these conditions are met, any refusal by the Council could be regarded as unreasonable, which would be in breach of the lease and would leave the Council open to legal challenge and the associated costs.
- 7.3 Community (Equality, Poverty and Rural) – none.
- 7.4 Climate Change / Carbon Clever – none.
- 7.5 Risk – The principal risk is that any delay in the decision will leave the Caravan Park operating under the current agency approach. This does not encourage a long-term view or investment in the business and will lead to further uncertainty for the owners of caravans sited on the caravan park and for other holidaymakers. This could have an impact on the local economy and would be likely to cause reputational damage to the Council. This risk is mitigated through the recommendation that Members conditionally approve the assignation, subject to the Council’s conditions outlined in Section 3.3 being met.
- 7.6 Gaelic – none.

Designation: Depute Chief Executive/ Director of Corporate Resources and Acting Head of Policy

Date: 8 May 2019

Author: Phil Tomalin, Ward Manager Sutherland

# Appendix 1 Plan of Area Leased to Sutherland Agricultural Society

