

Agenda Item	4ii.
Report No	CP/13/20

HIGHLAND COUNCIL

Committee: Communities and Place

Date: 25 November 2020

Report Title: Community Asset Transfer Requests

Report By: ECO Communities and Place

1. Purpose/Executive Summary

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. 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.

This report asks members to consider and agree recommendations on Community Asset Transfer (CAT) requests received and assessed over the previous 6 months. Following assessment, the report seeks:

- Approval for the sale of **the Car Park at Station Road, Corpach** to Kilmallie Community Centre
- Approval for the sale of **Lochinver Mission Centre** to Assynt Development Trust
- Approval for the homologation of the decision to clarify the extent of land transferred as part of the already agreed transfer to Spean Bridge Community Centre.

2. Recommendations

2.1 Members are asked to **agree** the following Community Asset Transfer requests:

The sale of **the Car Park at Station Road, Corpach to Kilmallie Community Centre for £7,500**. Terms of the transfer would include:

- Covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.

- Highland Council shall retain rights of access for local recycling facilities.
- Kilmallie Community Centre shall be responsible for upkeep of this area of land for recycling facilities, to the satisfaction of Highland Council.
- Kilmallie Community Centre shall continue to make the car park available for free public car parking.
- 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 Chair of Communities and Place Committee.

2.2 The sale of **Lochinver Mission Centre to Assynt Development Trust for £1**. Terms of the transfer would include:

- Covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.
- An 'Economic Development Burden' (EDB) will be applied in consultation with the Chair of Communities and Place and Executive Chief Officer Communities and Place: in the event the land is sold, or otherwise disposed of, or should ADT cease to be a Community Transfer Body as defined by the Community Empowerment (Scotland) Act 2015, the Council will seek reimbursement of the level of discount awarded on market value of the asset, as valued at the time of the relevant event.
- 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.
- Any other terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Chair of Communities and Place Committee.

2.3 Members are asked to **homologate the decision to clarify the extent of land to be transferred at Spean Bridge Community Centre to Spean Bridge Community Centre SCIO; specifically, that this is to include the associated car park.**

3. Implications

3.1 Resource: the recommendations, if agreed, would mean the Council foregoes a potential capital receipt or lease payment if an open market sales/leases were achievable:

- Section 4 a capital receipt of £32,500

- Section 5 £1 due to an existing lease being in place until 2060. Without such a lease the value would be £265,000 however this is indicative as it cannot be realised at present. A detailed explanation can be found in Section 5.1.3.

In all cases it is recommended to proceed as the wider community benefits would outweigh these receipts.

An officer Asset Transfer officer group including representatives from Legal, Finance, Property and Communities and Place have considered and scrutinised the applications. The ECO Resources and Finance has reviewed the asset transfers proposed and is supportive.

- 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 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 each of the CAT assessments below. There are not considered to be any adverse implications from these CAT requests.
- 3.4 One of the Council's key strategic priorities within its Corporate Plan is:
Work to invigorate local democracy and put our communities at the heart of the design and delivery of services at a local level. We will also develop the capacity of communities to decide and deliver their local priorities.
 This is supported by a number of outcomes targeted at increasing engagement, increasing and encouraging community led and run services and involving more people in local decision making. The CAT programme contributes to this strategic priority.
- 3.5 Climate Change / Carbon Clever and Gaelic - There are not considered to be any implications associated with these transfers.
- 3.6 Risk: although each assessment considers sustainability, there are risks that any group could fail in the future or choose to dispose of the transferred asset. The economic burden contained within the terms of transfer 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.

4. The sale of the Car Park at Station Road, Corpach to Kilmallie Community Centre

4.1 Background

4.1.1 Kilmallie Community Centre Ltd (KCC) requests ownership of the car park (c. 1400 sqm) which adjoins the Centre in Corpach for £7,500 (81% discount on market value of £40,000). A decision on this request was deferred, following a Committee discussion and by agreement with KCC, in November 2019. This was because, at that time, the application demonstrated limited community benefit and a transfer would impact on Council plans to manage traffic and parking. Deferral provided the opportunity for discussion and for the group to further develop their proposals.

During 2020 officers and the group have worked together to develop the proposal from KCC. The updated proposal includes costed and resourced plans to provide an improved car park and motorhome waste facilities. These updated proposals align well with both the Council and community's aims and priorities and a transfer will now deliver increased community benefit.

4.1.2 KCC operates the adjacent centre as a venue for community events, training delivery, music nights and other social activities. Ownership of the car park is sought in the hope this will facilitate funding for improvements; in particular, remediating the surface, which is uneven and pot-holed in places. The Centre regards the surface to be in an unacceptably poor condition which detracts from the Centre itself. KCC also proposes to install paint recycling facilities; waste and water facilities for tourists; and charging points for electric vehicles.

4.1.3



4.2 Summary of CAT Assessment

4.2.1 **Community Benefit:** The CAT process requires prospective benefits from a community body's proposal to be evaluated against the level of discount requested, as well as benefits arising from any current and/or potential alternative use. Highland Council Traffic Management Team regards the car park as servicing local need, with potential to be developed for wider use and income generation. Highland Council has also been reviewing scope to introduce parking charges at the Corpach car park, as part of a wider income generation project which is currently on hold due to Covid-19. Potential for parking charges remains unclear. However, a decision on KCC's Request must now be made, in accordance statutory duties imposed by the Community Empowerment (Scotland) Act 2015 to provide a timeous decision. This

deadline has elapsed, following deferral of decision by EDI committee in November 2019.

Community benefit from transfer is clearest in terms of improved amenity of the car park, as a result of potential resurfacing. However, the recently updated and expanded business planning by KCC has demonstrated clear alignment with Highland Council's strategic aims around development of tourism infrastructure in partnership with communities most affected by recent, significant growth in tourism across Highland. Proposals to install additional facilities for paint recycling, EV charging and campervan waste disposal are now plausibly demonstrated.

4.2.2 **Capacity to deliver:** The Centre has acceptably evidenced its capacity to deliver the proposed improvements. KCC has a long track record of managing the Centre's facilities, including successful fundraising to support the cost of significant maintenance work, in recent years. A volunteer board is supported by one part time member of staff, who manages the Centre.

4.2.3 **Community support:** Community support for resurfacing and additional facilities has been well demonstrated, including a petition of 254 signatories and letter of support from the Community Council. The Community Council support for asset transfer relates to the prospects of car parking improvements while emphasising that the car park is important to passing trade and visitors.

4.2.4 **Sustainability:** Income from the proposed facilities is projected to adequately allow for their maintenance, along with the car park. This income may potentially allow for reinvestment, if KCC's ambitious projections are realised. This is, however, contingent upon KCC first fundraising for development of the relevant facilities. A plausible range of funders and financial projections has been evidenced. Whilst the Company's governance structure is eligible for CAT purposes, no succession plans are in evidence to ensure sustainability of the organisation. The CAT request may however arguably be taken as evidence of such necessary planning for the future.

4.2.5 **Resourcing:** KCC would fund the cost of purchase and legal transaction by recourse to limited organisational reserves.

Given Highland Council's priorities around revenue generation to support delivery of core services (including region-wide statutory duties), loss of a potentially profitable public asset would be of questionable value for money. However, it remains the case that there are still no plans for introduction of charging at the site in the foreseeable future.

4.3 **Overall Summary**

4.3.1 The updated proposal from KCC includes costed and resourced plans to provide an improved car park and motorhome waste facilities. These updated proposals align well with both the Council and communities aims and priorities and a transfer will now deliver increased community benefit. Local Members are supportive of the group and the proposal. The proposal has been evaluated and the scores suggest that the request should be **agreed** to-

<i>Community Benefit (outcomes):</i>	<i>Moderate</i>
<i>Capacity to deliver:</i>	<i>Moderate</i>
<i>Community support:</i>	<i>Strong-moderate</i>
<i>Sustainability:</i>	<i>Moderate -weak</i>
<i>Resourcing:</i>	<i>Weak</i>

4.4 Recommendation

The sale of **the Car Park at Station Road, Corpach to Kilmallie Community Centre for £7,500**. Terms of the transfer would include:

- Covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.
- Highland Council shall retain rights of access for local recycling facilities.
- Kilmallie Community Centre shall be responsible for upkeep of this area of land for recycling facilities, to the satisfaction of Highland Council.
- Kilmallie Community Centre shall continue to make the car park available for free public car parking
- 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 Chair of Communities and Place Committee.

5. The sale of Lochinver Mission Centre to Assynt Development Trust

5.1 Background

- 5.1.1 Assynt Development Trust (ADT) requests ownership of the land on which Lochinver Mission Centre (aka Fishermen's Mission) is built for £1. ADT and owned, refurbished and operated the Centre since 2010, sub-letting space to local groups and businesses through its trading subsidiary, Assynt Community Trading Ltd. Profits are reinvested in community development projects by the Trust. Usage currently includes a café, restaurant, laundry, bunkhouse, storage space and offices used by HLH Rangers and the local community transport group, among others. The CAT Request is the Trust's most recent step in implementing its emerging place making strategy for community development in Lochinver; including improvements toward increased use of the Mission building, its marine visitor centre and wider 'green' area at Culag. ADT has received ongoing support for this work from the Scottish Government, various Council services and partners since 2010. The trust already owns the Centre's car park and surrounding land at Culag park.

5.1.2



Highland council owns title to the land on which the Centre is built. However, when the land was previously owned by the local estate, Royal National Mission to Deep Sea Fisherman built the Centre on it under a ground lease. This building was ultimately sold to ADT in 2010. At that time, Highland Council provided the Trust with a ground lease at £1 p/a for fifty years. This enabled ADT to attract significant capital investment in refurbishment of the building to safeguard continued access to these facilities within a remote, rural community.

5.1.3 This was prior to implementation of CAT under the Community Empowerment Act. Although the Trust may be regarded as owning the building should the lease ever be terminated or not be renewed, ownership of the building would pass to Highland Council as owner of the freehold title. The value of the building depends entirely upon freehold to the land it is built upon. This means that without taking full ownership of title for the land, ADT cannot borrow against the value of the building, as it aspires to.

5.1.4 Valuation

- The value to the Council is £7,500. This is due to the existing ground lease (3rd Party independent valuation).
- The value of the property without any lease is £270,000 (HC Estates).

The valuation is complicated due an existing lease to the proposed purchaser being in place until 2060. Market value of the land is therefore suppressed, as a buyer on the open market will not be able to utilise the property, nor receive any rental income above £1 until 2060.

Valuation figures noted above should therefore be regarded as indicative. The above shows actual market value, as well as what this may have been with 'vacant possession' (no lease in place). In this respect, Highland Council has already temporarily forfeited control over the majority of the land's market value upon prior agreement of the current, discounted lease. The CAT request essentially asks that this commitment to the Trust's purposes be made permanent by transferring full ownership.

5.2 Summary of CAT Assessment

5.2.1 **Community benefit (outcomes):** Although ADT's plans for development of the Centre are currently aspirational (as they depend upon ownership), prospective

community benefits are nevertheless plausible and well evidenced in the Trust's approach. ADT already owns the surrounding land at Culag park, including the car park for the Centre. Ownership of the land at the Mission Centre will allow future developments to rationalise community use of land across this area. Subject to CAT, the Trust also wishes to include the Centre among its local assets as security for borrowing, to be serviced from rental income. This would empower match funded investment in local community development projects of wide benefit to the Assynt area. Current aspirations include further investment in the adjoining Culag sports field; in sporting and leisure activities for enjoyment by the community; and development of affordable housing. This aspiration is supported by a recent study by the Highlands Small Communities Housing Trust, which identified significant local need for housing of various sizes and tenures.

- 5.2.2 **Capacity to deliver:** ADT is a long-established community body with extensive experience of managing and improving local amenity and facilities, as well as fundraising over £600,000 for acquisition and refurbishment of the Centre in 2010. ADT was recently classified as a Community Anchor Organisation by HIE and SCVO, during lockdown. This reflects the Trust's pre-existing presence as a sustaining and organising force across the locality, supporting small local groups to ensure continued viability, including occasionally taking over their operation on a temporary basis. Successful operation of the Centre as a community hub has been an integral part of this wider role across the community.
- 5.2.3 **Community Support:** The CAT Request has been developed through extensive engagement with the local community over a period of several years; including public consultations, meetings, site inspections, and a Making Places Design Charette which was co-funded by HC, HIE and SG to comprehensively review potential uses for land and buildings in the Harbour and Culag park areas of Lochinver. The request for CAT of the Mission Centre arose from the resulting local area options appraisal. Numerous letters of support from local community groups have been submitted in favour of CAT to ADT. These evidence broad support for transfer and attest to the effective operation of the Centre by the Trust.
- 5.2.4 **Sustainability:** The Trust has a strong track record of securing both project specific and core funding, including recent Scottish Government funding for two part-time development officers (Strengthening / Investing in Communities Funds) to advance plans for the area's ongoing development. Since funding and overseeing refurbishment of the Centre, the Trust has continued to invest in the building, including improvements to heating and minor alterations as required by tenant businesses to whom it is sub-let. Income from sub-letting may realistically be expected to continue to support sustainable operation of the Centre into the future. A relevant skill-set and experience are clearly in evidence among directors and staff.
- 5.2.5 **Resourcing:** ACT's most recent Trustees' report acknowledges a general lack of reserves as contingency against future running costs. Published accounts also create an impression of an operational loss across successive years. However, this ironically reflects depreciation in the value of the Mission Centre. The Trust has recourse to

limited unrestricted funds to support its legal costs and has requested that it not be held liable for recovery of Highland Council's costs incurred from transfer. The Trust has, however, also progressed to a second stage application to the Scottish Land Fund for coverage of its own legal costs. Officer assessment therefore concludes that it is important that the Trust is liable for the Council's legal costs for transfer, in line with the expectation for other community groups seeking a CAT.

There is no opportunity cost to Highland Council from CAT to the Trust, in terms of alternative uses of the building or loss of income to the Council - having already effectively ceded the land's value and use to ADT by previously granting a long-term, heavily discounted lease. Transfer therefore appears likely to represent value for money in terms of empowering ongoing reinvestment in local community development by the Trust. Agreement of the request would also provide closure to the historically gradual release of full control over this asset to the community, safeguarding its continued and improved operation into the future within the context of the Trust's wider objectives for community development.

5.3 Overview Summary

5.3.1 The proposal has been evaluated and the scores suggest that the request should be **agreed to-**

<i>Community Benefit (outcomes):</i>	<i>Strong</i>
<i>Capacity to deliver:</i>	<i>Very Strong</i>
<i>Community support:</i>	<i>Strong</i>
<i>Sustainability:</i>	<i>Strong</i>
<i>Resourcing:</i>	<i>Moderate</i>

Local Members are also supportive of the organisation and the transfer request.

5.4 Recommendation

The for the sale of Lochinver Mission Centre to Assynt Development Trust for £7500 Terms of the transfer would include:

- Covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.
- An 'Economic Development Burden' (EDB) will be applied in consultation with the Chair of Communities and Place and Executive Chief Officer Communities and Place: in the event the land is sold, or otherwise disposed of, or should ADT cease to be a Community Transfer Body as defined by the Community Empowerment (Scotland) Act 2015, the Council will seek reimbursement of the level of discount awarded on market value of the asset, as valued at the time of the relevant event.
- 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.

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

6 The agreed community asset transfer for sale of land at Spean Bridge Community Centre to Spean Bridge Community Centre SCIO

6.1 At its meeting of 15th of August 2019 the Council's former Environment, Development and Infrastructure Committee agreed to transfer land at Spean Bridge Community Centre to Spean Bridge Community Centre SCIO. The request from Spean Bridge Community Centre SCIO was for a transfer of the land the centre is built on, but the intention was that this would include the associated car park. During the legal transaction it became apparent that the transfer decision was ambiguous in that it did not specify that the car park should form part of this agreed transfer.

6.2 After consulting local Members and officers involved in the transfer it was clear that the intention was to include the car parking area. The purchase is being funded by Highlands and Islands Enterprise and a time pressure emerged for concluding the transaction to enable the community to draw down this funding. It has therefore been agreed by the Vice Chair of this committee in consultation with local Members to include the car park within the scope of the original transfer. Members are asked to homologate this decision.

6.3 Recommendation

Members are asked to homologate the decision **to clarify the extent of land to be transferred at Spean Bridge Community Centre to Spean Bridge Community Centre SCIO; specifically that this is to include the associated car park.**

Designation: ECO Communities and Place

Date: 23/10/20

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