

Agenda Item	<b>5.</b>
Report No	<b>SCC/08/21</b>

## HIGHLAND COUNCIL

**Committee:** Sutherland County Committee

**Date:** 17 May 2021

**Report Title:** Community Asset Transfer Requests

**Report By:** ECO Communities and Place

### 1. Purpose / 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). 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 Following Council's recent changes to governance of CATs, 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 This report asks members to consider and agree recommendations on Community Asset Transfer (CAT) requests relating to assets in the Sutherland area within this value range which have been received and assessed over the previous 6 months. Following assessment, the report seeks:
  - Approval for the sale of South Bonar Public Toilets, Picnic Area and Car Park to **Kyle of Sutherland Development Trust** for £1.

## 2. Recommendations

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

### 2.1 **Sale of South Bonar Public Toilets, Picnic Area and Car Park to Kyle of Sutherland Development Trust for £1, if asked.** Terms of the transfer would include:

- Evidence of Planning approval for the proposed development.
- Evidence of security of tenure over additional land adjoining the car park, as required for the proposed development.
- Kyle of Sutherland Development Trust covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own, in addition to any costs associated with re-assignment or renegotiation of the lease of land with Ross Estates and agreement of any rights required to be negotiated with Scottish Water.
- An 'Economic Development Burden' (EDB) of twenty-five years in duration will be applied, in consultation with the Chair of the Sutherland County Committee: in the event the building or land is sold, or otherwise disposed of, or should Kyle of Sutherland Development Trust 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 Highland Council's Communities and Democratic Engagement Manager in consultation with the Chair of the Sutherland County Committee.

## 3. Implications

### 3.1 **Resource implications:** the recommendation, if agreed, would mean the Council foregoes ownership of an asset with a market value in the region of £20,000.

The public toilets cost the Council approx. £7K p.a to run. If the community are granted a comfort scheme grant for running these there will be a net saving of £.5k p.a to the council. The site is not in scope for chargeable car parking by the Council due to its small size.

### 3.2 An officer Asset Transfer officer group including representatives from Legal, Finance, Property and Communities and Place has considered and scrutinised the CAT Requests and supporting evidence and is supportive of the decision to approve the transfer.

### 3.3 **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.

3.4 **Community impacts** (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 the CAT assessment below. There are not considered to be any adverse implications from the CAT request contained in the paper.

3.5 One of the Council's key strategic priorities within its Corporate Plan is:

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.

3.6 **Climate Change / Carbon Clever and Gaelic implications:** There are not considered to be any implications associated with this transfer.

3.7 **Risk implications:** 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 economic development 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. **Sale of South Bonar Public Toilets, Picnic Area and Car Park to Kyle of Sutherland Development Trust for £1, if asked.**

##### 4.1 **Background**

4.1.1 Kyle of Sutherland Development Trust (KoSDT) request ownership of South Bonar public toilets, car park and picnic area for £1 – to construct serviced overnight parking for motorhomes and a camping site. The Trust's proposals include introduction of an e-bike charge point, 5 electric hook-ups for campers, waste facilities for motorhomes, a covered eating area, upgraded toilet and shower facilities. The South Bonar project represents a first phase, with parallel plans for installation of four electric hook-ups for campervans and motor homes at the Falls of Shin site, owned by KoST and aspirations for further development at Rosehall. The South Bonar site has been assessed as having a market value of £20,000.

Documents relating to this request can be viewed online at: [www.highland.gov.uk/cat](http://www.highland.gov.uk/cat)

4.1.2

Highland Council does not own the full extent of the South Bonar site requested by the Trust. The North East area is leased from Ross Estates and KoSDT would need to seek re-assignment or renegotiation of the lease with the land-owner's agents, should it wish to secure use of that area. Scottish Water has also contested ownership over the entire remaining site and this requires to be resolved prior to any transfer being finalised. At a minimum, Scottish Water have access rights to their facility which is located parallel the site requested for transfer. Scottish Water is also a relevant authority, subject to CAT Requests under the Community Empowerment Act – should need arise for the Trust to pursue ownership or usage rights. Complex land ownership and the potential need to negotiate access rights for the site with Scottish Water may reasonably be expected to delay project commencement in the event CAT is approved.

#### 4.1.3

Following planning issues due to a projected flood assessment the group have withdrawn the current planning application. A fresh planning application will require the Trust to bring forward revised proposals to mitigate flood risks across the majority of the land, the low elevation of which currently prevents any approval of overnight camping.

## 4.2 **Summary of CAT Assessment**

4.2.1 **Community benefit** from the proposal primarily rests on the Trust's ability to coordinate project planning and grant aid funding for delivery of the capital infrastructure. Kyle of Sutherland Development Trust (KoST) has presented a thorough and well evidenced proposal for enhanced infrastructure in response to recent strain on the local community following significant growth in visitors, particularly motorhomes and campers.

4.2.2 **Community support** for the Trust's proposal has been clearly evidenced, including from the community council. KoST has presented evidence from an extensive period of local engagement, which shows sustained demand for local facilities to reduce wild camping and inappropriate campervan waste disposal. Letters of support have been provided from destination management groups and tourism operators, including the Dornoch Caravan and Camping Park –reinforcing local demand and mitigating concerns over potential displacement. Local engagement also highlighted some concern around reduced parking availability to access the river Kyle for permitted seasonal fishing – including potential displacement of parking into the village.

4.2.3 Public parking at the South Bonar site is currently regulated, but charging has not been implemented. Introduction of three motorhome parking spaces would result in the current 16 parking spaces being reduced to 14, which would remain publicly available. The Council's parking service is content with the proposal to transfer the site into community ownership, as are the Amenities Service and D&I maintenance officer responsible for upkeep of the picnic area. Transfer of ownership, along with liability for upkeep of the toilets, parking surface and picnic area will represent a revenue saving to the Council (approx. £3.5k).

4.2.4 **Capacity to deliver:** KoST is a well-established group with robust project management and governance in evidence. The Trust has clearly demonstrated relevant skillsets and access to third party support for the proposed project – drawing on a decade of successful fundraising and oversight of prior capital developments.

4.2.5 **Sustainability** of the proposed infrastructure and the Trust's ability to **resource** the development are also well evidenced and supported by operational and fundraising plans as well as revenue and expenditure forecasting. Operation of the two sites, at South Bonar and Falls of Shin, is currently projected to bring in a modest profit, in the region of £4,500 pa, which the Trust proposes to reinvest in the facilities. Capital investment required for the South Bonar site is stated in the region of £237,000 ex. VAT. The Trust has secured Coastal Communities Funding of £72,000 and Rural Tourism Infrastructure Funding via Highland Council and Visit Scotland to deliver the infrastructure.

### 4.3 **Overall Summary**

4.3.1 The benefits the Trust propose will arise from CAT of the asset are based on robust information. Reductions to road congestion, littering and human waste from improved toilet and overnight camping provision would significantly benefit social and environmental wellbeing, locally. Governance and financial arrangements are well evidenced and appear sustainable. Subject to conditions around planning and security over the full site, approval of CAT is therefore regarded as likely to lead to value for money, in terms of benefit to the local community; not only the development of infrastructure to receive visitors, but their wider impact. These wider benefits to the local community extend beyond the improvement of facilities for visitors, to the positive impact these facilities will have in alleviating pressure from large numbers of tourists on a fragile, remote community. The proposal has been evaluated and the scores suggest that the request should be **agreed:**

<i>Community Benefit:</i>	<i>strong</i>
<i>Capacity to deliver:</i>	<i>very strong</i>
<i>Community support:</i>	<i>strong - moderate</i>
<i>Sustainability:</i>	<i>strong</i>
<i>Resourcing:</i>	<i>strong</i>

Designation: ECO Communities and Place

Date: 27/04/21

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