

Agenda Item	8
Report No	LA/14/22

HIGHLAND COUNCIL

Committee: Lochaber Area Committee

Date: 30 August 2022

Report Title: Asset Transfer Request – Tougal Car Park (Change Request)

Report By: ECO 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.
- 1.2 Through this process, Road to the Isles Facilities Group (RTIFG) was previously approved a 25-year lease at no charge, to improve public toilet provision and extend parking ([CP/11/21](#)) – this was later reduced to a 19-year term at request of the group (under delegated powers). Following the neighbouring estate declining to agree tenure over adjacent land for parking expansion, the group has subsequently secured agreement for use of nearby land at Silversands to develop additional parking in the area and seeks approval of this change.
- 1.3 This change to project delivery impacts conditions for transfer and requires approval. Conditions for transfer include evidence of security of tenure over land for expansion of parking and Planning approval. In light of changes to the location and extent of additional parking to be provided, it was considered the change request beyond scope for delegated approval, requiring referral to Area Committee for re-consideration of the CAT and whether to uphold agreement and terms for transfer.
- 1.4 Whilst the original decision was taken at Communities and Place Committee due to timing, requests such as this, which relate to community use of an asset with a market rental value of less than £10,000 pa, are subject to decision making by Area Committee.

2. Recommendations

- 2.1 Members are asked to **agree** the following recommendation for transfer of the asset:

19-year lease of Tougal public toilets and car park by Morar, to Road to the Isles Facilities Group, at no annual charge. Conditions of the transfer to include:

- The lease will be restricted to community use, including provision of public toilet facilities and chargeable parking.
- The lease will be on a Full Repairing and Insuring basis (the tenant will be responsible for maintenance and insurance).
- Evidence of Planning approval for the proposed development.
- Evidence of security of tenure over additional land for development of additional parking.
- Road to the Isles Facilities Group covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.
- 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 Lochaber Committee.

3. Implications

3.1 Resource: the recommendations, if agreed, would mean the Council foregoes a hypothetical lease payment of £3,250 per annum for Tougal Car Park and toilets – market rental valuation reflects current combined running costs and anticipated liabilities around operation and maintenance. Transfer of Tougal toilets would remove an ongoing operational and maintenance cost to the Council of approximately £6,500 per annum. If parking charges were to be introduced at Tougal car park, this could bring the Council up to £3,000 per annum in net profit, after maintenance and operational costs for the combined site, including the toilets. The Facilities Group has secured over £113,000 in grant aid from the Coastal Communities Fund to finance improvements. It is recommended to proceed with transfer as the value of wider community benefits arising would significantly outweigh such income from a lease or charging for parking.

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 plausible 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 and Rural): Demonstrating community engagement and support for a proposed asset transfer is a crucial element of each request for community use of a council asset. This is set out the assessment below. There are not considered to be any adverse implications from the CAT request.

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 Community Asset Transfer programme contributes to this strategic priority.

3.5 Climate Change / Carbon Clever and Gaelic - There are not considered to be any negative implications associated with this transfer. The project will allow for restrictions on inappropriate beach-side parking which is currently causing environmental damage to local sand dunes.

3.6 Risk: although each assessment considers sustainability of an asset following transfer, there are risks that any group could fail in the future – this would result in termination of the lease and return of the asset to the Council.

4. Change request - Lease of Tougal toilets and car park to Road to the Isles Facilities Group

4.1 Legal negotiation of the lease previously approved through the Communities and Place Committee has been halted as RTIFG have indicated that they wish to change the scale and location of proposed parking development. Due to lack of support from the adjacent landowner for development of additional parking on privately owned land, the original proposal for additional parking can no longer be achieved. A new site for parking development at Silversands has been proposed, and whilst this will not create the same number of additional parking spaces originally proposed, security of tenure can be obtained. The group's ability to leverage agreement for parking expansion over additional land was regarded by Communities & Place Committee as providing additional benefit, which could not currently be negotiated by the Council. It was therefore considered appropriate that this change be reconsidered by the Area Committee.

4.2 **Original proposal** (previously approved as basis for CAT): redevelop and extend the existing toilets and car park (currently 17 cars and 5 motorhomes), by providing 53 additional car parking spaces across land owned by Highland Council and the neighbouring estate.

4.3 **Updated proposal**: repair the surface and improve toilets at Tougal car park, as well as developing 16 additional spaces on a different site, nearby at Silversands.

- See plan of locations below (Fig.1 at 4.6)
- [Planning request](#) for this proposal is currently under consideration.

4.4 **Purposes of the approved CAT** are not subject to change:

- Alleviate antisocial and environmentally damaging parking on sand dunes and nearby road verges of B8008 by increasing parking available at Tougal.

- Improve publicly available toilet facilities at Tougal.
- Invest any surplus revenue from chargeable parking in improvement of facilities / employment of a local ranger (subject to sufficient net-revenue).

4.5 Transfer of Tougal toilets would remove an ongoing operational and maintenance cost to the Council of approximately £6,500 per annum for the combined site, including the toilets. Market rental value of the land is £3,250 p/a, restricted to community use for toilet provision and chargeable parking.

4.6 Fig. 1: Areas for proposed development of parking:



5. Summary of CAT Assessment

5.1 Community benefit (outcomes): **strong – moderate**

5.1.1 Development of improved and expanded tourist infrastructure shows clear benefits to not only the local economy, but also social and environmental wellbeing – by alleviating some of the pressures brought to the area by large numbers of visitors. In recent years, this has included complete blockages to the road network, due to extensive road-side parking. The updated proposal for CAT, whilst not as extensive as the original proposal, would still result in a doubling of local parking spaces available; improvements to toilet provision, path network and accessibility of Morar Sands; investment of profits from the toilets and parking *may* result in employment of an area ranger by the group, to engage with visitors and seek to deter nuisance behaviour – although probably not on a full-time basis, as originally intended.

5.2 Capacity to deliver: **very strong**

The group already operates two former Highland Council toilets in Mallaig and at Traigh Beach under leases agreed through the CAT process. Approximately £0.5m in grant aid for capital development was secured by the group for facilities which they developed at these sites.

5.3 **Community support: *moderate – strong***

Neither letters of support, nor public representations were received regarding the initial CAT request. However, the request itself arose from collaboration across neighbouring Community Councils and local elected Members of Highland Council, as part of the B8008 Working Group, which identified the Tougal site as a priority for investment in infrastructure across the area. Wider awareness raising and engagement on the proposals has been carried out through social media.

5.4 **Sustainability: *strong – moderate***

Potential for revenue generation will be significantly reduced as a result of the reduced scale of the project. However, the group has prepared plausible financial forecasts for operation of the toilets and car park, which are based on information from Council services on potential income and actual operating costs. These suggest that reduced income (as a result of the reduced scale of additional parking) may not provide for employment of a site ranger but would adequately ensure sustainable operation of the facilities.

5.5 **Resourcing: *very strong***

The Facilities Group has already secured Coastal Communities Funding of £113k, covering 100% of projected funds for the overall capital works. Under current Council operation, toilets and parking (if charging were to be introduced) are projected to generate up to £3k pa in net profit, after maintenance and operation of the combined parking and toilets.

6. **Overall Summary**

6.1 The benefits the Facilities Group propose that will arise from transfer of the asset are based on robust information. Reductions to road congestion, littering and human waste from improved toilet and parking provision would significantly benefit social and environmental wellbeing locally. Governance and financial arrangements are well evidenced and appear sustainable. Whilst the revised proposal would not provide the same number of additional parking spaces, the wider benefits remain well evidenced. Approval of the 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.

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

Community Benefit (outcomes): strong - moderate

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

7.

Recommendation:

19-year lease of Tougal public toilets and car park by Morar, to Road to the Isles Facilities Group, at no annual charge. Conditions of the transfer to include:

- The lease will be restricted to community use, including provision of public toilet facilities and chargeable parking.
- The lease will be on a Full Repairing and Insuring basis (the tenant will be responsible for maintenance and insurance).
- Evidence of Planning approval for the proposed development.
- Evidence of security of tenure over additional land for development of additional parking.
- Road to the Isles Facilities Group covers all reasonably incurred property and legal costs associated with the asset transfer process – both the Council’s and its own.
- 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 Lochaber Committee.

Designation: ECO Communities and Place

Date: 08/08/22

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