

# The Highland Council

Agenda Item	11
Report No	CP/14/24

**Committee:** Communities and Place

**Date:** 22 May 2024

**Report Title:** Community Asset Transfer Request – Braes of Balvonie

**Report By:** Assistant Chief Executive, Corporate

## 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 through a process known as Community Asset Transfer. As part of this request a discount on market value can be requested. 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 Where Council assets are over the value of £100,000, decision on the transfer of any asset rests with the Communities and Place Committee. This report asks Members to consider and agree the Community Asset Transfer (CAT) request received from Balvonie Park Association for sale of Land comprising two fields between Braes of Balvonie, Inverness and the A9 Trunk Road, Inverness (Coordinates: 57.453409, -4.1654117 and 57.458095, -4.167728) for £1.

## 2. Recommendations

2.1 Members are asked to:

- **Agree** to the sale of the land comprising two fields between Braes of Balvonie, Inverness and the A9 Trunk Road, Inverness to Balvonie Park Association for £1, based upon the terms of transfer as set out in the report at 7.1.

## 3. Implications

3.1 Resource:

The land subject to this CAT is currently owned by Highland Housing Association (HHA). There is a minute of agreement between HHA and The Highland Council (The Council) which states should The Council request ownership of the land,

then HHA will transfer the land to The Council for £1. HHA are aware of the request and content to transfer the land as part of the process.

Balvonie Park Association are requesting 100% discount on the market value of the land which is estimated at £300,000.

The land in question at Balvonie is not zoned for development within the new Inner Moray Firth Development Plan and is out with the settlement boundary. The land is currently countryside and unlikely to get future permission for development or housing. The value is based on hope value as due to its location if placed on the market for sale may be acquired by a housebuilder and land banked for potential future development.

A Community Asset Transfer officer group including representatives from Legal, Finance, Property and Communities and Place has considered and scrutinised the CAT request and supporting evidence. The request is recommended to proceed as the wider community benefits would outweigh the negligible benefit from the Council retaining the land.

### 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 by appeal to Scottish Ministers.

### 3.3 Community (Equality, Poverty, Rural and Island):

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 and the proposed use of the land should have positive health and wellbeing impacts on the local population.

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.

This particular application focuses on use of transferred land to increase access to allotments – a core duty for the Council – and wider access to food growing and recreational spaces. This would support commitments in the Council's Community Food Growing Strategy, Allotments Policy and strategic commitments to support community wellbeing.

### 3.4 Climate Change / Carbon Clever:

There are not considered to be any adverse implications associated with this transfer however the proposed use of the land should have wider positive biodiversity impacts and delivery of land for food growing and allotments which are all Council priorities.

Balvonie Park Association plans for the land include the planting of native broadleaf trees and creation of a community orchard and wildflower areas. This will increase the biodiversity of the area.

An Environmental Risk Assessment for the plans has been completed and a Woodland Creation Operation Plan prepared with a letter of compliance received from Scottish Forestry.

### 3.5 Risk:

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 right of pre-emption set out for this transfer has been proposed to mitigate these risks. In addition, 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 (risks arising from changes to plant, equipment, process, or people):

There are not considered to be any implications associated with this transfer.

### 3.7 Gaelic:

There are not considered to be any implications associated with this transfer.

## **4. Sale of Land comprising two fields between Braes of Balvonie, Inverness and the A9 Trunk Road, Inverness to Balvonie Park Association**

### 4.1 Background

Ownership of the land comprising two fields between Braes of Balvonie, Inverness and the A9 Trunk Road, Inverness has been requested by Balvonie Park Association which is a member of The Scottish Charitable Incorporated Organisations (SCIO).

### 4.2

The transfer proposes to develop the land, which is currently countryside, into a Community Woodland with an orchard, allotments, food growing areas and pathways for use by the community for recreation and leisure. Balvonie Park Association have secured the necessary funding from SSEN for the proposed developments and have prepared supporting plans such as the Woodland Operational Creation Plan, Project Plan and Environmental Risk Assessment with the former having received formal endorsement of compliance from Scottish Forestry.

4.3 Increased community ownership is a Scottish national outcome and priority for Highland Council.

## 5. Summary of CAT Assessment

5.1 As per Appendix 1 – Community Asset Transfer Approach – Assessment Framework.

## 6. Overall Summary

6.1 This is a strong application from a well-established local community group which has the funding and skills to deliver on the commitments outlined. This project aims to benefit the local and wider community through development of this land for increased public facilities with a considerable focus on community food growing, recreation and leisure, with inclusive access to the area / facilities for all. The Association has demonstrated a strong commitment to taking on and improving this asset for the benefit of the community.

6.2 A right of pre-emption is proposed on the property to ensure that in the event the property is sold or otherwise disposed of, or should Balvonie Park Association cease to be a Community Transfer Body as defined by the Community Empowerment (Scotland) Act 2015, the Council will seek the option of re-purchasing the asset for the original value of £1.

6.3 The proposal has been evaluated and the scores suggest that the request should be **agreed**:

- *Community Benefit: Very Strong*
- *Capacity to deliver: Very Strong*
- *Community support: Very Strong*
- *Sustainability: Very Strong*
- *Resourcing: Very Strong*

## 7. Recommendation

7.1 Sale of the of Land comprising two fields between Braes of Balvonie, Inverness and the A9 Trunk Road, Inverness to Balvonie Park Association for £1. Terms of the transfer would include:

- Balvonie Park Association will cover all reasonably incurred property and legal costs associated with the asset transfer process – both the Council's and its own.
- Community access to use of the facility must be maintained.
- Any transfer will be subject to existing burdens/conditions in the Council's title to the property (e.g., third 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.

- A right of pre-emption is proposed on the property to ensure that in the event the property is sold or otherwise disposed of, or should Balvonie Park Association cease to be a Community Transfer Body as defined by the Community Empowerment (Scotland) Act 2015, the Council will seek the option of re-purchasing the asset for the original value of £1.

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

Designation: Assistant Chief Executive, Corporate

Date: 1 May 2024

Author: Mark Mackay, Community Development Manager, Inverness and South

Appendix 1: Community Asset Transfer Approach Assessment Framework – Balvonie Park Association

**THE HIGHLAND COUNCIL****Community Asset Transfer Approach****Assessment Framework****Purpose**

The purpose of the assessment is to ensure that the decision making process will produce the best decision for the community, not necessarily Highland Council nor the requesting Community Asset Transfer Body.

**Evidence**

Primarily the assessment will be based on the information received within the application form and any business plan however additional representations from external parties will also be included along with internal service knowledge.

Cognisance will be taken regarding the nature of the request e.g. whether it is for lease, use or ownership. The level of assurance required will differ depending upon the nature of the request with higher level of compliance/support required for organisations wishing transfer of an asset as opposed to a leasing arrangement.

**Structure of Assessment**

The assessment will be structured under 5 key headings.

- Benefit to the community (outcomes)
- Capacity to deliver
- Level of community support
- Sustainability
- Resourcing

Consideration will also be given to the terms and conditions requested by the Community Asset Transfer Body and what equivalent terms may be appropriate.

Each of the 5 assessment areas will be assessed separately, considering evidence of best value and be given an overall rating from very strong to poor. A summary of the evidence required to achieve each rating is outlined below:

<b>Evidence</b>	<b>Overview</b>
Very strong	Governance and financial arrangements are strong and sustainable. Best value characteristics are evidenced and contained throughout the approach. Related projected benefits are very robust and demonstrate value for money.
Strong	Governance and financial arrangements are sound and sustainable. Best value characteristics are in evidence in the proposal. Related projected benefits are demonstrated well and represent value for money.
Moderate	Governance and financial arrangements are in place and acceptable. Best value characteristics have been considered as part of the proposal. Related projected benefits are acceptable and could lead to value for money.
Weak	Governance and financial arrangements are weak. Best value characteristics are not well demonstrated in the proposal. Related projected benefits are not based on robust information and demonstrates questionable value for money.
Poor	Governance and financial arrangements are poor. There is little evidence of Best Value characteristics in the proposal. Related projected benefits are ill defined and/or unrealistic and do not demonstrate value for money.

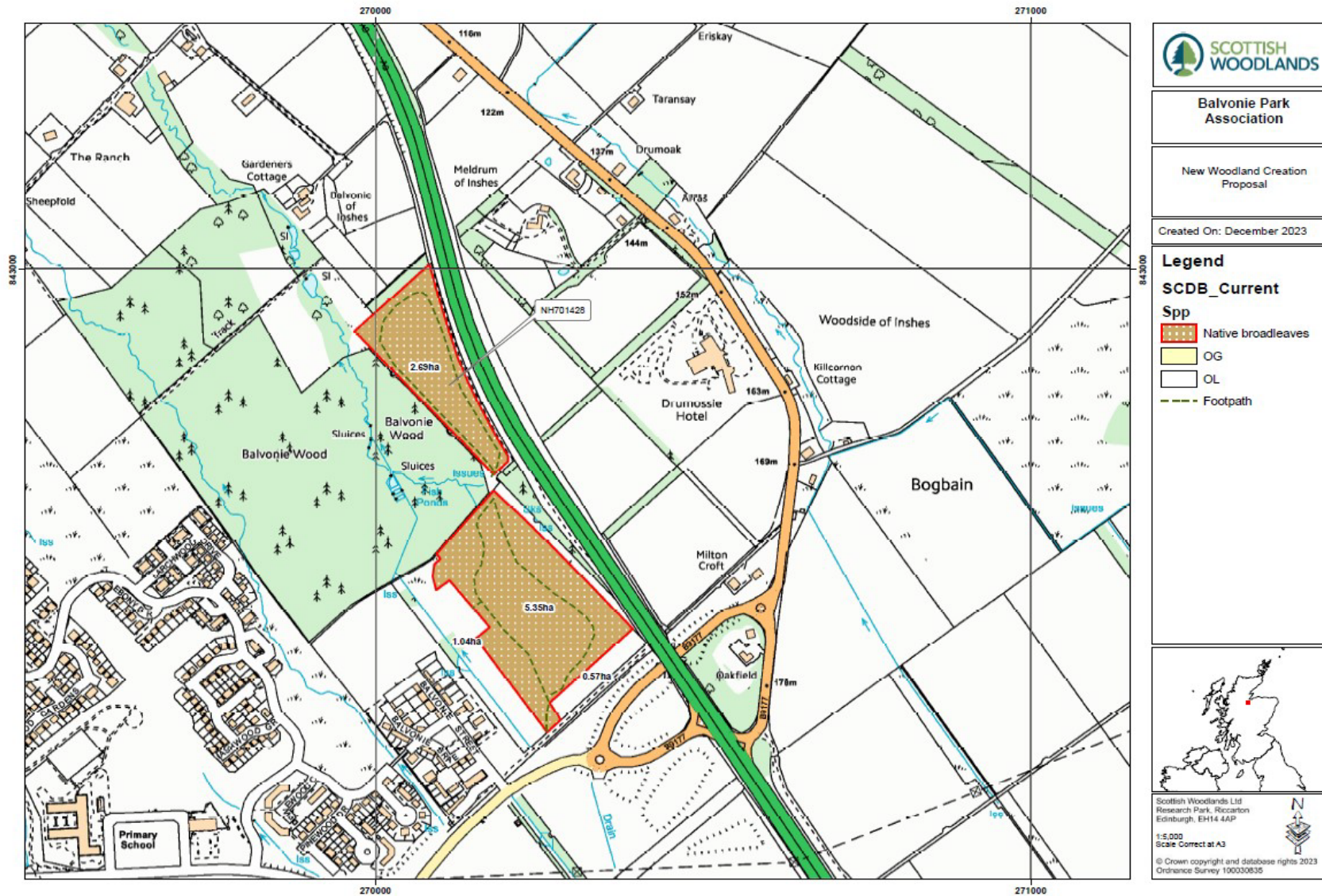


View of land at Braes of Balvonie, Inverness





Aerial view of land at Braes of Balvonie, Inverness



Map of land at Braes of Balvonie, Inverness with areas for CAT highlighted.

<b>ASSESSMENT AREA:</b>	<b>BENEFIT TO THE COMMUNITY</b>		
<b>Criteria</b>	<b>Evidence from Community Asset Transfer Body</b>	<b>Additional Evidence/Information</b>	<b>Assessment of Compliance</b>
Economic benefits	Encouraging food growing by the community. Generation of income from allotments / food growing areas. Potential for food selling from self-generated food growing from allotments / growing areas and orchards. Development of community and education spaces for use by local businesses.		Strong
Regeneration benefits	Development of countryside land into a community orchard, recreational pathways, allotments and food growing areas.		Very strong
Health benefits	Encourage use of outdoor space by members of the community for recreation, sport and leisure.		Very strong
Social wellbeing benefits	Development of a sustainable outdoor space for community use to meet for recreation, sport and leisure. Community food growing has wider health and wellbeing benefits and reducing social isolation for those involved.		Very strong
Environmental Benefits	Planting of native broadleaf trees and creation of community orchard and wildflower areas.	Environmental Risk Assessment of area completed. Woodland Creation Operation Plan prepared by BPA and letter of compliance received from Scottish Forestry.	Very strong

Tackling inequality	BPA have committed to the Scottish Governments First policy and to making the area available for all of the community to access / use without charge.		Very strong
Promotion of equality	All operational plans being developed by BPA will ensure that area will be accessible by all and will be a community gathering / education space.		Very strong
<b>Benefit to the Community Assessment Summary:</b>		<i>Rating – Very Strong</i>	

<b>ASSESSMENT AREA:</b>	<b>CAPACTIY TO DELIVER</b>		
<b>Criteria</b>	<b>Evidence from Community Asset Transfer Body</b>	<b>Additional Evidence/Information</b>	<b>Assessment of Compliance</b>
Experience of organisation	BPA are a fully constituted organisation who have been actively operating since 2019 and have 20+ members.		Strong
Access to appropriate advice and support	BPA are members of The Scottish Charitable Incorporate Organisations (SCIO) and recently also became members of the Scottish Council for Voluntary Organisations (SCVO).		Very strong
Have sought advice and support during application phase	During this application phase in addition to the above BPA have engaged with The Community Ownership Support Organisation (COS) with members attending events.	BPA have engaged with numerous organisations to support their plans such as Scottish Forestry, The Highland Council Community Food Growing team.	Very strong

Appropriate skills within the organisation	BPA have a number of individuals who have experience in administering projects, technical administration skills, funding application experience and a local Forestry Contractor. This contractor will carry out the site works, fencing and planting for BPA.		Very strong
Access and level of volunteer support	BPA currently has 20+ active members a number of whom are also members of the local community council.		Very strong
<b>Capacity to Deliver Assessment Summary:</b>			<i>Rating – Very Strong</i>

<b>ASSESSMENT AREA:</b>	<b>LEVEL OF COMMUNITY SUPPORT</b>		
<i>Criteria</i>	<i>Evidence from Community Asset Transfer Body</i>	<i>Additional Evidence/Information</i>	<i>Assessment of Compliance</i>
Community involvement in developing the request	Community Feedback and Options Report was completed by BPA with Milton of Leys and Braes of Balvonie residents. This was online and received 197 responses on views of what the land in question should be developed into use for. BPA have completed frequent newsletters to the community advising / updating on plans and progress of the CAT. They also update each local (Inshes and Milton of Leys) Community Council meeting and in turn the local elected members in attendance.		Very strong

Community support for the request	<p>The said Community Feedback and Options Report details the feedback from respondents which shows and high level of support for the land to be transferred to the community to be developed into a community woodland and that they would intend to use it on a frequent basis mainly by walking and would in time be prepared to pay a small annual fee for its upkeep.</p> <p>During the public representations phase of the CAT a number of replies were received from local residents and community council members, and all were in favour of the CAT.</p>		Very strong
<b>Level of Community Support Assessment Summary:</b>			<i>Rating – Very Strong</i>

<b>ASSESSMENT AREA:</b>	<b>SUSTAINABILITY</b>		
<i>Criteria</i>	<i>Evidence from Community Asset Transfer Body</i>	<i>Additional Evidence/Information</i>	<i>Assessment of Compliance</i>
Financial – ability to support/fund the asset in the future	Funding secured from SSEN for first 6 years and expected that their operation plan will be completed within this time to complete the development of the site. BPA have members with funding application source knowledge and experience of successfully applying and if the CAT is supported and ownership transferred, they will explore all the options.		Very strong

Governance – sustainability of the organisation	Fully constituted group who meet formally on regular basis. 20+ members with opportunity to increase, active since 2019 and closely affiliated with local community council and residents' association.		Very strong
<b>Sustainability Assessment Summary:</b>		<i>Rating – Very Strong</i>	

<b>ASSESSMENT AREA:</b>	<b>RESOURCING</b>		
<i>Criteria</i>	<i>Evidence from Community Asset Transfer Body</i>	<i>Additional Evidence/Information</i>	<i>Assessment of Compliance</i>
Value of asset	Estimated £300,000		
Legal title and relevant information	Currently held by HHA with Minute of Agreement for transfer to The Highland Council.		
Current use of the asset and potential impact	The rectangular part (as per maps above) of the sale was Zoned in the original Inner Moray Firth Development Plan for community use. The IMFDF2, has not allocated any of the land and it is therefore considered Countryside. No plans for use. No negative impact expected from transfer.		
Requested purchase/discount value	£1		
Ability of organisation to pay	Funding secured from SSEN for legal fees and development of the land as per the Project Plans of BPA.		Very strong
<b>Resourcing Assessment Summary:</b>		<i>Rating – Very Strong</i>	