

LAND AT GRAHAM'S POINT, KILMUN

1.0 EXECUTIVE SUMMARY

- 1.1** The purpose of this report is to provide background information and seek Committee instructions in relation to a decision of the Bute and Cowal Area Committee held on 4 April 2017. The Committee considered a motion presented under Standing Order 13 in the following terms: "That the Committee recommend to the Policy and Resources Committee that the Council should enter into negotiations with Argyll Community Housing Association to engage Clause 31 with a view to the land known as Graham's Point Community Park, being transferred back into the Council ownership." The Committee decision was "The Committee agreed the content of the motion and resolved accordingly".
- 1.2** The recommendation is as follows:
That Members note the information contained in this Report and instruct officers to inform Argyll Community Housing Association that the Council does not wish to take this land back into Council ownership.

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2.0 INTRODUCTION

- 2.1** The purpose of this report is to provide background information and seek Committee instructions in relation to a decision of the Bute and Cowal Area Committee held on 4 April 2017. The Committee considered a motion presented under Standing Order 13 in the following terms: "That the Committee recommend to the Policy and Resources Committee that the Council should enter into negotiations with Argyll Community Housing Association to engage Clause 31 with a view to the land known as Graham's Point Community Park, being transferred back into the Council ownership." The Committee decision was "The Committee agreed the content of the motion and resolved accordingly".

3.0 RECOMMENDATIONS

- 3.1** That Members note the information contained in this Report and instruct officers to inform Argyll Community Housing Association (ACHA) that the Council does not wish to take this land back into Council ownership.

4.0 DETAIL

- 4.1** A plan showing the location and extent of the land referred to in this Report is annexed hereto as Appendix 1. The land is used by the general public and a local community group as a community play and amenity area.
- 4.2** Prior to the Council's Housing Stock Transfer which was carried out in November 2006, this land was held on the Housing Revenue Account. The Council had decided to transfer all land held on the Housing Revenue Account other than vacant land with development potential to ACHA. This land was neither vacant nor considered to have development potential.
- 4.3** Following a decision of the Bute and Cowal Area Committee on 4 September 2007, ACHA was requested to return the land to Council ownership on the basis (1) that the land had been erroneously transferred to ACHA and (2) that in terms

of clause 31 of the Stock Transfer agreement land which had been erroneously transferred to ACHA should be returned to the Council. The Chief Executive of ACHA responded by saying that this land did not transfer in error and that clause 31 did not apply but that ACHA would discuss the transfer back of this land “in the round of things”. The land remains in ACHA’s ownership although it is understood that ACHA would now agree to transfer the land back to the Council.

- 4.4 Maintenance of the land consist mainly of grass cutting and this was carried out by D & I staff. The cost was never recharged as the area of grass remained on the asset register as amenity grass. This area was highlighted as belonging to ACHA as part of the grass cutting reductions exercise as part of Service Choices.
- 4.5 Development and Infrastructure have no identified budget to allow the Department to maintain this land, the estimated cost of which would be £2,500.00 per annum for grass cutting and general grounds maintenance (including weed treatment, shrub cutting etc). There would be additional costs associated with inspection of play equipment and any maintenance and future replacement of the play equipment. The land at Graham’s Point bounds directly onto the foreshore and includes a sea wall and costal protection. As with any sea defence there is a risk of significant failure which has no budget provision and would place an additional financial burden on the Council if the land was transferred. For these reason Development and Infrastructure would not willingly accept responsibility for this land.
- 4.6 The Council has received a “petition” which requests that the Council takes this land back into Council ownership. A copy of the “Petition” forms Appendix 2 to this Report.

5.0 CONCLUSION

- 5.1 The Council is under no legal obligation to accept the return of this land.
- 5.2 The Council has no identified budget to meet the estimated annual maintenance costs of £2,500.00.
- 5.3 Given the absence of a budget to maintain this land, officers’ recommendation is to refuse the request to take this land back into Council ownership.

6.0 IMPLICATIONS

- 6.1 Policy A community group may wish to consider an asset transfer from ACHA. This may allow access to grant funding not available to ACHA. This would be for ACHA to determine.
- 6.2 Financial There is no identified budget to maintain this land
- 6.3 Legal This land correctly transferred to ACHA during the stock transfer process and the Council is under no legal obligation to take this

land back into Council ownership.

- 6.4 HR: None.
- 6.5 Equalities None known as the asset is assumed to remain available as part of the ACHA Estate.
- 6.6 Risk: Taking on the maintenance of this site would have a detrimental impact on the level of amenity service provided elsewhere.
- 6.7 Customer Service: None.

Director of Customer Services
Director of Development and Infrastructure Services
Policy Lead - Councillor Roddy McCuish

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APPENDICES

Appendix 1 Plan
Appendix 2 Petition