



ASSET TRANSFER REQUEST REVIEW ASSESSMENT – KILMORY WOODLANDS

REVIEW – SUBMITTED 13 JANUARY 2020

1. OVERVIEW

The purpose of this document is to assess the grounds of review submitted by Kilmory Woodlands in regard to their Asset Transfer Request (ATR) for a 99 year lease of part of Kilmory Home Farm for £1 per annum.

Section 86(8) of the Act states that Section 82 (3)-(5) apply to a review as they apply to an original asset transfer request. This means that in carrying out a review, the local authority must consider the request in the same way as the original process taking into accounts the same factors and benefits of the request and alternative proposals.

Name: Kilmory Woodlands

Address: 50a Union Street, Lochgilphead, PA31 8JS

Relevant documents attached Y / N

Asset: part of Kilmory Home Farm Lochgilphead

UPRN: [PV08206180001](#)

Lease

2. ORIGINAL REQUEST

Lochgilphead Community Council commissioned Community Enterprise in 2016 to produce an Action Plan for Lochgilphead. The report identified that facilities for young people and children are missing in Lochgilphead. The report listed potential actions should include improving and further developing forest trails, cycle paths and signage.

A survey by Mid Argyll Youth Development Services found that there is a shortage of sporting facilities in Mid Argyll and additional sports facilities emerged as one of the top priorities among young people for improving the quality of life in Mid Argyll.

The Mid Argyll Rugby Football Club does not have a suitable area of ground on which to construct a pitch. It has identified the proposed site would be ideal for the purpose. It needs the pitch to be up to 120m x 70m to comply with SportScotland's recommendations for pitch size. Mid Argyll RFC regularly have around 60 boys & girls from P4 – S3 age groups who train twice a week and playing every weekend throughout the season. At a recent event 170 young players turned out for a game. The numbers have grown considerably in the last 3 years by over 300%. We now have five different age youth teams. The number of members would rise significantly if a pitch is made available. We

have P4-5 minis. P6-7 Mini's, Under14 Boys, Under15 Girls and Under16 Boys to provide training equipment for and also, five sets of strips to provide. The aim at the club is to try to promote rugby participation, extra-curricular activity, team building, health & wellbeing and fitness education throughout all school ages with the hope that this will progress in later life and help to keep Mid Argyll RFC active and training in the community. Our main aim is to re develop our first team which hasn't had the players to run in recent years, but this requires us to grow our grass roots rugby schemes. With the development of our rural children in mind we also know that rugby is a sport that, no matter where the children go to, educationally or work wise in later life, a club will always be looking for new members and players. We are looking to provide a platform for these young players to carry on throughout their life and encourage the fitness and health side of the sport. With increased coach development, we would like to open sessions up further in the future to younger children and children with special needs if possible. This proposed development would gain the full support of the Scottish Rugby Union.

The Mid Argyll Athletics Club does not have a suitable area of ground on which to construct a track. It has identified the proposed site would be ideal for the purpose. It needs the track to occupy 180m x 100m to comply with SportScotland's recommendations for track size. Mid Argyll Athletics Club was started in 1984 and currently has around 70 active members. We provide training for athletes from age 7 to 18 and facilitate the opportunity to compete at indoor and outdoor athletics events at a local, regional and national level. We are fully affiliated to Scottish Athletics and all of our coaches are trained by Scottish Athletics. We do a range of activities included in the three main athletic disciplines of running, jumping and throwing. This proposed development would gain the full support of the Scottish Athletics.

Mid Argyll Shooting Club does not have a suitable area of ground on which to construct target sports facilities. It has identified the proposed site would be ideal for the purpose. It needs the target facility to occupy 75m x 50m to comply with Scottish Target Shooting's recommendations for location of the target and changing rooms. The object of the Club is to provide facilities for and to promote participation of the whole community in the sport of target shooting also to encourage skill in target shooting by providing instruction and practice in the use and safe handling of air weapons. The Club now wishes to grow capacity through new facilities and bring more people together, both young and old through target sports. Kilmory Woodland will help launch the next stage in the Club's development and bring about an off-grid target sports facility. This will not only create a home for target sports in Mid Argyll but increase the resilience for the sport. It will provide a seven-day facility. Bringing people together more often and giving opportunity to more people to socialise and become active through target sports. The Club is affiliated to the national governing body, Scottish Target Shooting. Scotland is successful in the world of target sports having Olympic and Commonwealth athletes within its shooting team. The Club has instructors qualified through UK national body, the National Small-bore Rifle Association. The Club provides opportunity for its members to participate in national leagues and competitions. Through Scottish Target Shooting, the Club can access progression pathways leading to participation in international sport.

Forestry Enterprise Scotland is wishing to further develop its BMX tracks in the area and Kilmory Woodlands would provide a focus point.

The development of sports facilities will be a major factor in improving health and wellbeing of young people.

We will promote equality and inclusion. Our focus will be to include disabled people in all sports and to ensure opportunities are available for women/girls in sport.

This will be a phased development, working with national bodies for sport and the community through local grass roots clubs.

3. CURRENT USE

The the asset is zoned for community use however it is integral to the development of the Kilmory Industrial Estate as set out in the Council's Framework Concept Master Plan 2015 ("the Plan").

4. ORIGINAL ASSESSMENT - SUMMARY

SECTION 1: BENEFITS - ASSESSMENT OF ORIGINAL REQUEST

The assessment of the original decision set out that the ATR had demonstrated that agreeing to the request was likely to promote the matters set out in Section 82 (3)-(5) of the Community Empowerment Act.

MODERATE - The request was determined to be neutral in terms of setting out a more positive benefit for the Council and Community than the current use by the Council

Please outline the reasons for this assessment below:

While the request does set out positive benefits that would arise if it were agreed, the benefits to be achieved by the request would be outweighed by the proposal potentially adversely affecting and jeopardising the development of the Kilmory Industrial Estate set out in the Plan. As part of that development, Economic Development require to retain rights of way to enable the installation of power and water to allow for the development set out in the Plan; and it is anticipated that as the Plan is revisited and amended as required in relation to the layout of the phases, some of the land to which the request relates may be required to be incorporated within it.

In addition, the Plan includes large area of ground which is set aside for community use/ open recreation which will be connected via road network, footpaths & cycle routes which may be suitable for the purpose to which the request relates.

SECTION 2 – GOVERNANCE – ASSESSMENT OF ORIGINAL REQUEST

The assessment of the original decision determined that the group had demonstrated that the CTB members have the appropriate skills, experience and qualifications to deliver the request, or who a plan for engaging people who did, had suitable governance arrangements for the scale of the request, have a succession plan in place for recruiting Board Members /Trustees in the future and demonstrated compliance with State Aid Rules.

MODERATE – Governance arrangements are MODERATE

The request sets out that the Directors, who will be responsible for the running of the company, have a range of experiences in managing differing commercial and charitable operations.

However, it is provided that expert advice will be sourced where needed and lists a range of organisations who it states are backing the plan. However, the request not provide evidence or assurance that there is plan for engaging those organisations or to what extent they wish to or will engage with the proposal.

In addition the asset transfer request provides no information on the governance arrangements of any other group that will be required to take forward a part/s of the project to deliver the stated benefits of the community proposal. Further, there no information within the asset transfer request on succession planning or in relation to compliance with State Aid rules.

SECTION 2 – FINANCE – ASSESSMENT OF ORIGINAL REQUEST

The assessment of the original decision determined that the group had not identified all the relevant costs of the request or facilities including initial investment, ongoing running costs and end of project costs, had not identified appropriate and realistic sources of funding and had not identified how the request will be funded in the longer term.

POOR - Financial Arrangements are POOR

Please outline the reasons for this assessment below:

Financial arrangements are weak, based on estimates and it is not clear if they are realistic or if the proposal is sustainable. It is not clear whether any of anticipated sources have been applied for and none have been awarded and may be substantially materially less than set out. Additionally, the request has not provided evidence or assurance that the relevant costs have been adequately identified including initial investment, ongoing running costs and end of project costs or how the project will be funded in the future.

SECTION 3 – FINANCE – PROJECT RELATED BENEFITS

The assessment of the original decision determined that proposed benefits of the request contribute to achieving the authority's functions, that proposed benefits of the request would have an unacceptable impact on the ability of the authority to deliver its functions and that obligations / restrictions imposed on the Authority that may prevent, restrict, or effect ability to agree to the request.

In addition, it was determined that community support and demand for the proposal was only demonstrated to an extent.

WEAK - project related benefits are WEAK

Please outline the reasons for this assessment below:

While the request sets out that proposed benefits of the request contribute to achieving the authority's functions there is insufficient information provided as to how those will be achieved. There is not enough information to assess whether the proposed benefits of the request have an unacceptable impact on the ability of the authority to deliver its functions.

In addition, the Economic Development require to ensure that they retain rights of way for water and power to allow the development of the Kilmory Industrial Estate and that any development that takes place will have no negative impact on the future drainage or operation of the expanded industrial estate.

Further, any project related benefits to be achieved by the request would be outweighed by the proposal potentially adversely affecting and jeopardising the development of the Kilmory Industrial Estate set out in the Plan As part of that development the Service require to retain rights of way to enable the installation of power and water to allow for the development set out in the Plan, and as the Plan is revisited and amended as required in relation to the layout of the phases, some of the land may be required to be incorporated into the within it.

SECTION 4 – SUSTAINABILITY AND EQUALITY

The assessment of the original decision determined that the group had not demonstrated any evidence of the sustainability. Although some monitoring / reporting arrangements were considered to be in place these had only be demonstrated to a moderate extent.

WEAK – Sustainability and Equality are weak

Please outline the reasons for this assessment below:

There is evidence of the promotion of equality and monitoring /reporting arrangements contained within the request however it does not provide any evidence or assurance in relation to the sustainability of the project.

SECTION 5 – BEST VALUE

The assessment of the original decision demonstrated vision and leadership, Performance Management AND Equality as moderate and Effective Partnerships , Governance and accountability and Use of Resources as weak whilst Sustainability was assessed as poor.

Total Weighted Score: 2.3 - **WEAK**

ORIGINAL DECISION – REFUSED – 17 DECEMBER 2019

5. REASONABLE GROUNDS FOR REFUSAL OF ORIGINAL REQUEST:

1. The request or accompanying documentation was not sufficiently robust to give confidence that the plans and benefits will be achieved, it is not clear whether anticipated funding sources have been applied for and none have been awarded; the request has not adequately identified relevant costs including initial investment, ongoing running costs and end of project costs or how the project will be funded in the future;
2. There is currently no access to the site which is crucial to its development. While the group have obtained a letter offering access rights there is no detail of what this will entail or what cost they might incur when trying to use the access. Access is some way from the town and entry to the site other than through the new Industrial Estate is limited to a private road off the main road or through the council car park and garden;
3. While the asset has been identified surplus to requirements and is zoned for community use, it is integral to the development of the Kilmory Industrial Estate as set out in the Council's Concept Framework Master Plan 2015. The benefits to be achieved by the request would be outweighed by the proposal potentially adversely affect and jeopardise the development of the Kilmory Industrial Estate. As part of that development the Service require to retain rights of way to enable the installation of power and water to allow for the development set out in the framework plan, and as the plan is revisited and amended as required in relation of the layout of the phases, some of the land may be required to be incorporated into the development plan; and
4. The consideration of the project related benefits, sustainability, equality and best value within the asset transfer request was weak and 99 year lease would provide the community transfer body with security and exclusive right to the land while concerns remained about the deliverability of the project. In addition any other development of the site or other groups wishing to utilise the site would be required to fit within the confines of Kilmory Woodlands aims and objectives.

The original assessment documents are attached as an appendix for cross reference.

The grounds of review are assessed below in the same way as the original process taking into account the same factors and benefits of the request and alternative proposals.

6. GROUNDS OF REVIEW – ASSESSMENT

The grounds of review have been assessed in the same way as the original decision making process taking into account the same factors and benefits of the request and alternative proposals assessed in the original decision namely:

- Benefits
- Governance and Financial Arrangements
- Project Related Benefits
- Sustainability and Equality
- Best Value

GROUND 1 Challenging Ground of Refusal 1
<p>1. The request or accompanying documentation was not sufficiently robust There had been plenty of opportunity for the officers to request more detail in the period of time from the original submission (which was approved and delivered to the Council at the end of March although it was not validated until 17th June) until we were informed in December that the request would be refused. This land had been the subject of requests to the Council several times before and there was a reluctance to draw up detailed plans again in view of the poor record of the Council supporting the previous requests from community groups. Moreover, funding for project appraisal is not readily available unless there is real prospect of the land becoming available. As is common with other ATRs, we would expect a lease to be granted subject to funding being available for the first phase of development.</p>

Original Assessment Criteria to which this ground relates:

NONE

Does assessment of this ground of review alter the decision made in relation to the original request - **NO**

REASONS
<p>The relevant services determined that there is no change to the original decision as the ground of review is not concerned with any of the assessment criteria in relation to the proposal and does not provide additional information which would alter the original assessment of the proposal.</p>

GROUND 2 Challenging Ground of Refusal 2
<p>Access to the site We reject the assertion that the site is remote from Lochgilphead. It is not. New access to the site created as part of the overall project plan will ensure that facilities are readily accessible on foot, cycling and by car. Moreover, as the sports facilities will be available to users from all over Argyll, their proximity to the town of Lochgilphead is not material to their greater use. It would be possible to ensure pedestrian access other than through the Council car park as other routes exist. Vehicular traffic would use the access via Kilmory Park. It does not require a super highway to be constructed for access purposes for the uses proposed. A road surface commensurate with the proposed use would be readily funded.</p>

Original Assessment Criteria to which this ground relates: BENEFITS (SEE SECTION 1.8 (OTHER NEGATIVE IMPACTS) OF ORIGINAL ASSESSMENT DOCUMENT)

Does assessment of this ground of review alter the decision made in relation to the original request - **NO**

REASONS

While the ground of review rejects the original determination that the site is not remote from Lochgilphead there is no further information provided which has not already been considered in the original assessment of the asset transfer request.

There is no real access to the site which lies some way from the town and entry to the site other than through the new Industrial Estate is limited to a private road off the main road or through the council car park and garden.

Additionally while the review states that a road surface commensurate with the proposed use could be easily funded it does not identify or provide any further information about whether anticipated funding sources have been applied for or awarded and therefore there is no additional information provided which was not assessed as part of the original request.

On that basis the relevant services have assessed the ground or review against the relevant criteria in set out in the assessment of the original asset transfer request and determined that there is no change to the original decision and in relation to this ground of review the original assessment stands in all respects.

GROUND 3 Challenging Ground of Refusal 3**Development of the Kilmory Industrial Estate and Kilmory Park**

The site requested in the ATR is outwith, and not integral to, the development of either the Kilmory Industrial Estate nor Kilmory Park. The proposed recreational activities would have absolutely no adverse effect on Kilmory Park nor would it jeopardise the development of the Kilmory Industrial Estate. We have been told that the space in Kilmory Park identified in the Masterplan for community use is already earmarked for other purposes.

There is no indication if the Council has in mind any alternative use for the area requested in the ATR even though it has been left derelict for many years. If the Council require to retain rights of way over any part of the land applied for in the ATR, it would be expected that this would be provided for as a condition in any lease offered.

Original Assessment Criteria to which this ground relates:**PROJECT RELATED BENEFITS (SEE SECTION 3 OF ORIGINAL ASSESSMENT DOCUMENT)**

Does assessment of this ground of review alter the decision made in relation to the original request - **NO**

REASONS

While the ground of review rejects the original determination that the site is integral to the development of the Kilmory Industrial Estate there is no further information provided which might demonstrate this which has not already been considered in the original assessment of the asset transfer request.

There is no real access to the area therefore no current use is possible, however it is integral to developing the Kilmory Industrial Estate as set out in the Council's Framework Concept Master Plan 2015 ("the Plan")

While the comments that retention of rights of way over the land to which the review relates could be provided for as a condition of any lease – a lease would generally provide exclusivity of possession and retention is required to enable water and power and drainage installation as part of the development which would not be possible should the site be transferred to be developed for the reasons set out in the request.

Additionally, as stated in the original assessment of the request it is anticipated that as the Plan is revisited and amended as required in relation to the layout of the phases, some of the land to which the original asset transfer request relates may be required to be incorporated within it and therefore retention of the site by the Council is necessary.

On that basis the relevant services have assessed the ground or review against the relevant criteria in set out in the assessment of the original asset transfer request and determined that there is no change to the original decision and in relation to this ground of review the original assessment stands in all respects.

GROUND 4 Challenging Ground of Refusal 4

4. Project related benefits, sustainability, equality and best value

The clubs have expertise in the various sports and activities. They also wish to promote more sporting equality and diversity. The Rugby Club want the pitch particularly to allow it to develop girls' rugby with the support and encouragement of Scottish Rugby. The Target Sports Club is affiliated to Scottish Target Shooting, the governing body in Scotland and former Scottish Team members in target sports will be able to pass on their own expertise. The facilities will help to redress social and economic inequality that occurs for people living outside of urban areas, where sporting facilities are more readily available. It will help reduce the isolation that can be felt by people living in rural communities. Provision of sporting and recreational facilities is high on the Scottish Government's priorities. Development of these facilities will promote economic growth as it will provide additional reasons for people to stay or move into the area. How can you evaluate the benefit of providing facilities such as a rugby pitch, cycling paths, target range, athletics track as being weak?

The project will be run by people with the right skills and attitudes. The clubs which are interested in developing the facilities are run by people with trades and management skills and who already work with contractors that will be needed for the successful delivery of the project. The plans for sporting facilities are supported by the public in Mid Argyll and by national sports organisations. It is supported by the local Argyll and Bute Councillors and by the MSP. It can be progressively developed as the community's needs and aspirations grow and change. Proper management of the currently neglected woodland within the site would contribute to the sustainability of the site.

It is identified in the Local Plan as being for community use limiting its value as it is not available for residential or commercial development. The Council may wish to impose a market rent although this would be contrary to the intention of community asset transfer. However, as the proposed development is something that could be carried out in conjunction with the Argyll and Bute Council, any amount over and above a pepper corn lease could be regarded as the Council's contribution to providing recreational and sporting facilities.

A long lease is required as it could take 10 years to complete the full development and then it will need continued maintenance and funding over time. The Council needs to encourage long-term thinking, particularly if Mid Argyll is to grow in economic terms. It is anticipated that the terms of the lease would include a clause for the land to revert to the Council as and when the Company is no longer able to maintain the site to the expected level of use and maintenance.

Being a community organisation with membership open to all in the community, it would therefore be open to any group or person to influence the aims and objectives of the Company (see below) to accommodate their peculiar requirements. Widespread use of Kilmory Woodlands would be ensured for the whole community.

Original Assessment Criteria to which this ground relates:

BENEFITS/GOVERNANCE/ PROJECT RELATED BENEFITS (SEE SECTIONS 1 AND 3 OF ORIGINAL ASSESSMENT DOCUMENT) – THESE GROUNDS ARE ALL CONSIDERED UNDER THE BEST VALUE SECTION – SECTION 6.

Does assessment of this ground of review alter the decision made in relation to the original request – **NO**

REASONS –BENEFITS

The assessment of the original asset transfer request determined that the request did set out positive benefits (which were assessed as moderate) that would arise if the request were agreed to however, it was considered that the benefits to be achieved would be outweighed by the proposal potentially adversely affecting and jeopardising the development of the Kilmory Industrial Estate.

Moreover while the ground of review suggests that the Council may wish to impose a market rent this is not the case. The asset is zoned for community use, however it is integral to the development of the Kilmory Industrial Estate as set out in the Plan, and stated in the original assessment of the asset transfer request and elsewhere in the review.

GOVERNANCE

The assessment of the original asset transfer request determined that it did set out that the directors responsible had a range of experiences in managing different commercial and charitable operations. However no information is provided in respect of the governance arrangements of any other group that will be require to take forward a parts of the project to deliver the stated benefits of the community proposal. Nor it is clear to what extent if any they will be involved. The review does not provide any additional information in respect of these issues therefore there is no further information provided which might demonstrate that appropriate governance arrangements are in place which has not already been considered in the original assessment of the asset transfer request.

PROJECT RELATED BENEFITS

While the original request and the review document do provide some evidence of support within the community, the original request did receive one representation which strongly object to the proposal which indicates that such support is not universal. Moreover, there is nothing contained within the review documents which indicates support from local members or the MSP. It should also be noted that council members took the decision to refuse the overall request and will determine the outcome of this review.

SUSTAINABILITY AND EQUALITY

The assessment of the original asset transfer request determined that while a 99 year lease was requested little work was shown on how the project would be developed. The request suggested the site would be developed over 10 years but the only area it showed any work on developing is the rugby pitches and there was no detailed costing or draft business plan. Additionally, such a lease would provide the community transfer body with security and exclusive right to the land while there were concerns about the deliverability of the project. In addition it concluded that any other development of the site or other groups wishing to utilise the site would be required to fit within the confines of Kilmory Woodlands aims and objectives.

No additional information has been provided in the review which provides further additional clarity or information or rebuts any of the points considered in when the original asset transfer request was assessed and as outlined above.

On that basis the relevant services have assessed the ground or review against the relevant criteria in set out in the assessment of the original asset transfer request and determined that there is no change to the original decision and in relation to this ground of review the original assessment stands in all respects.

7. OVERALL CONCLUSION

This sets out the conclusions on the review of the original asset transfer request with regard to the information provided in the review and the provisions set out in Section 82 (3)-(5) which apply to a review as they apply to an original asset transfer request. In carrying out a review, the authority must consider the request in the same way as the original process, taking into account the same factors and benefits of the request and alternative proposals. Having carried out the review the authority may confirm the original decision, modify it or any part of it or substitute a different decision.

The Asset Transfer Group have assessed the grounds of review having regard to the above and have determined that the grounds of review do not change or alter the outcome of the assessment of the ATR in respect of the factors and benefits set out in the original assessment specifically - **Benefits, Governance and Financial Arrangements, Project Related Benefits, Sustainability and Equality and Best Value.**

On that basis the ATG recommend that the ATRSC confirms the original decision to refuse the ATR submitted by Kilmory Woodlands in respect of the part of Kilmory Home Farm for the reasons set out in the original decision and as set out below:

1. The request or accompanying documentation was not sufficiently robust to give confidence that the plans and benefits will be achieved, it is not clear whether anticipated funding sources have been applied for and none have been awarded; the request has not adequately identified relevant costs including initial investment, ongoing running costs and end of project costs or how the project will be funded in the future;
2. There is currently no access to the site which is crucial to its development. While the group have obtained a letter offering access rights there is no detail of what this will entail or what cost they might incur when trying to use the access. Access is some way from the town and entry to the site other than through the new Industrial Estate is limited to a private road off the main road or through the council car park and garden;
3. While the asset has been identified surplus to requirements and is zoned for community use, it is integral to the development of the Kilmory Industrial Estate as set out in the Council's Concept Framework Master Plan 2015. The benefits to be achieved by the request would be outweighed by the proposal potentially adversely affect and jeopardise the development of the Kilmory Industrial Estate. As part of that development the Service require to retain rights of way to enable the installation of power and water to allow for the development set out in the framework plan, and as the plan is revisited and amended as required in relation of the layout of the phases, some of the land may be required to be incorporated into the development plan; and
4. The consideration of the project related benefits, sustainability, equality and best value within the asset transfer request was weak and 99 year lease would provide the community transfer body with security and exclusive right to the land while concerns remained about the deliverability of the project. In addition any other development of the site or other groups wishing to utilise the site would be required to fit within the confines of Kilmory Woodlands aims and objectives.

Date Review Determined 18 March 2020