

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – ASSET TRANSFER
REQUEST – ISLE OF GIGHA HERITAGE TRUST - ISLE OF GIGHA FERRY TERMINAL
CAR PARK – ASSESSMENT AND DECISION**

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to advise the standing sub-committee of the Policy & Resources Committee on the decision made by the Executive Director of Customer Services to refuse the asset transfer request (ATR) submitted by Isle of Gigha Heritage Trust (IGHT) in respect of Gigha Ferry Terminal Car Park for transfer of ownership for £1 in accordance with the recommendation of the Asset Transfer Group (ATG). There is a presumption of agreement to an ATR, unless there are reasonable grounds for refusal.

1.2 The IGHT is requesting to use the car park at the Gigha ferry terminal to use it as their primary access to provide camping and motorhome facilities at Ardmish on the Isle of Gigha. This will include serviced pitches, car parking and an accommodation block comprising toilets, showers, laundry, kitchen, a communal area for campers and a small welcome office for Gigha. Later phases of the development will include glamping pods, bunkhouse and games

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2. INTRODUCTION

- 2.1 The purpose of this report is to advise the standing sub-committee of the Policy & Resources Committee on the decision made by the Executive Director of Customer Services to refuse the asset transfer request submitted (ATR) by Isle of Gigha Heritage Trust (IGHT) in respect of Gigha Ferry Terminal Car Park for transfer of ownership for £1 in accordance wi

Executive Director of Customer Services.

- 3.2 Notes that in the event the standing sub-committee of the Policy & Resources Committee determine that the asset transfer request should be refused officers will explore with IGHT other avenues short of an ATR transferring ownership that could be utilised to advance their proposal.

4. **DETAIL**

ISLE OF GIGHA HERITAGE TRUST – ISLE OF GIGHA FERRY TERMINAL CAR PARK

- 4.1 On 22 October 2018, Isle of Gigha Heritage Trust (IGHT) submitted an asset transfer request in respect of Isle of Gigha Ferry Terminal Car Park seeking ownership of the asset at £1 per annum (A copy of the asset transfer request form is attached as appendix 1 and a plan showing the location of the car park is attached as appendix 2).
- 4.2 The ATR is inter alia in the following terms: IGHT is requesting ownership of the car park at the Gigha ferry terminal to use it as their primary access to provide camping and motorhome facilities at Ardminish on the Isle of Gigha. This will include serviced pitches, car parking and an accommodation block comprising toilets, showers, laundry, kitchen, a communal area for campers and a small welcome office for Gigha. Later phases of the development will include glamping pods, bunkhouse and games room (a plan showing proposed camping

ASSESSMENT OF THE ASSET TRANSFER REQUEST

4.7 The agreed assessmr6s

- The benefits to be achieved by the request would be outweighed by the current/alternative proposal: adversely affecting and jeopardising the ongoing sustainability of the lifeline ferry services between the mainland and the island; the deliverability of the future development plans for the Gigha Ferry Service and proposed infrastructure (including a breakwater/aligning structure) in light of the anticipated hybrid ferry; the Council wide harbour order; and the proposed rationalisation of the recycling collection in Gigha which it is intended will be situated at the asset; and
- It is considered that there are potential alternatives which would provide IGHT with the access they require to the proposed site namely a clearly defined right of servitude or access to the intended site from the public road. IGHT stated in their Expression of Interest to the Scottish Government Rural Tourism Infrastructure Fund (RTIF) (which was submitted for consideration as part of their ATR) that acquisition of the Gigha Ferry Terminal car park was not crucial to their project as the Trust own the land covering alternative access routes to the site identified.

ALTERNATIVE TO ASSET TRANSFER REQUEST

4.13 As stated above, should the ATR be refused by the Council that there may be alternatives which would provide the IGHT with the access that they require in order to progress their proposal specifically:

- A clearly defined servitude over part of the car park which sets out that it is a right of access only and not a right to park, stay or inhabit the car park; or
- Access to the intended site from the public road.

4.14 It is intended that in the event of any refusal of ATR officers will explore with IGHT other avenues short of an ATR transferring ownership that could be utilised to advance their proposal.

NEXT STEPS

DECISION

4.15 Following a final decision on the ATR by the standing subcommittee of the Policy and Resources Committee the following steps require to be carried out:

DECISION NOTICE

4.16 The Council must issue a decision notice which must:

- State the date on which the asset transfer request was made;
- Identify the community transfer body which made the request;
- Identify the land to which the request relates;
- Set out the Council's decision or agree or refuse the request;
- Set out the Council's reason for that decision;
- Contain notification of the right of review, how an application for review may be made and the date it must be made.

4.17 If the request is refused because an alternative proposal (including the current use) is preferred, the decision notice also requires to describe the alternative proposal

and how it was considered to provide greater benefits. The decision notice should be equally clear if the request is refused because of deficiencies in the community transfer body's case.

4.18 Thereafter the Council must:

- Publish a copy of the decision notice on a website or by other electronic means; and
- Inform every person who made written representations in respect of the asset transfer request (and provided an address) of its decision and where a copy of the decision notice is available for inspection.

REQUEST REFUSED

4.19 It should be noted that if the Council refuse an asset transfer request

- applies to the Scottish Ministers for a direction to extend the period; or
- appeals to the Scottish Ministers to determine the terms and conditions for the contract which the Council may be required to accept.

5. CONCLUSION

It is recommended that:

- 5.1 The standing sub-committee of the Policy & Resources Committee refuses the ATR submitted by Isle of Gigha Heritage Trust in respect of the Isle of Gigha Ferry Terminal Car Park in accordance with the recommendation of the ATG and the Executive Director of Customer Services.
- 5.2 Notes that in the event the standing sub-committee of the Policy & Resources Committee determine that the asset transfer request should be refused officers will explore with IGHT other avenues short of an ATR transferring ownership that could be utilised to advance their proposal.

6.0 IMPLICATIONS

- 6.1 Policy – In line with Council policy on Asset Transfer Requests
- 6.2 Financial – Possible loss of strategic asset valued at £75,000
- 6.3 Legal - In line with Community Empowerment (Scotland) Act 2015
- 6.4 HR - None
- 6.5 Fairer Scotland Duty: None
- 6.5.1 Equalities - protected characteristics – Decision reached in line with Community Empowerment (Scotland) Act 2015
- 6.5.2 Socio-economic Duty: Decision reached in line with Community Empowerment (Scotland) Act 2015
- 6.5.3 Islands –Lifeline Ferry Services may be affected
- 6.6. Risk – As above
- 6.7 Customer Service - None

Executive Director of Customer Services: Douglas Hendry
Policy Lead: Rory Colville

24 April 2019

For further information contact:

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APPENDICES

- Appendix 1 – Asset Transfer Request Form Submitted by IGHT
 Appendix 2 – Plan showing location of the car park
 Appendix 3 – Plan showing proposed camping site relative to car park

Appendix 4 – Overall assessment document