

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – ASSET TRANSFER
REQUEST – KILMORY WOODLANDS – PART OF KILMORY HOME FARM –
ASSESSMENT AND RECOMMENDATION**

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise the Policy and Resources Asset Transfer Sub Committee on the recommendation made by the Executive Director with responsibility for Commercial Services (in accordance with the recommendation of the Asset Transfer Group (ATG)) to refuse the asset transfer (ATR) request submitted by Kilmory Woodlands (KW) seeking a 99 year lease of part of Kilmory Home Farm for £1 per annum. There is a presumption of agreement to an ATR, unless there are reasonable grounds for refusal.
- 1.2 The purpose of the ATR is to enable Kilmory Woodlands to provide sports facilities at Kilmory Woodlands including a rugby, pitch, running track, shooting targets and BMX tracks.
- 1.3 Where the Executive Director with responsibility for Commercial Services (following the

ARGYLL AND BUTE COUNCIL

**POLICY AND RESOURCES
ASSET TRANSFER SUB COMMITTEE**

COMMERCIAL SERVICES

17 DECEMBER 2019

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2. INTRODUCTION

2.1 The purpose of

appendix 1; and a plan of the land to which the ATR relates is attached as appendix 2).

4.2 The Council have title to the subjects known as Kilm

- the Council could not discharge its obligations under the Disposal of Land (Scotland) Regulations 2010 in relation to the disposing of land at less than best consideration; and
- There were reasonable grounds to refuse the request under the Community Empowerment (Scotland) Act 2015.

PART 5 OF THE COMMUNITY EMPOWERMENT (SCOTLAND) Act 2015

4.10 In assessing the ATR the ATG gave proper consideration to the requirements set out in Part 5 of the Community Empowerment (Scotland) Act 2015 and corresponding Scottish Government Guidance for Relevant Authorities and determined that:

- there are reasonable grounds for refusing the request; and
- It would recommend that the authority did not agree to the request.

REASONABLE GROUNDS FOR REFUSAL

4.11 The ATG determined that the reasonable grounds for refusal are as follows:

- 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.
- 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 establish and 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 gardens;
- 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 Framework Concept Master Plan 2015. The benefits to be achieved by the request would be

5.1 In the event that the Policy and Resources Asset Transfer Sub Committee refuses the asset transfer request based on the reasonable grounds for refusal then 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.

5.2 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.

5.3 It should be noted that if the Council refuse an asset transfer request, the community transfer body which submitted it may apply to the Council for a review of that decision.

6. CONCLUSION

It is recommended that:

6.1 The Policy and Resources Asset Transfer Sub-Committee refuses the ATR submitted by Kilmory Woodlands seeking a 99 year lease of part of Kilmory Home Farm for £1 per annum (in accordance with the recommendation of the Executive Director with responsibility for Commercial Services and the ATG).

7. IMPLICATIONS

7.1 The implications of the proposal are outlined in the table below.

Table 6.1: Implications	
Policy	In line with Council policy relating to the Asset Transfer Process
Financial	None at present
Legal	In line with Statutory requirements of the Community Empowerment (Scotland) Act 2015 and related Regulations
HR	None at present
Equalities	None at present
Risk	None at present
Customer Service	None at present

For further information contact:

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