

REPORT TO KINCARDINE AND MEARNS AREA COMMITTEE – 23 JANUARY 2024

ASSET TRANSFER REQUEST – MILL OF BENHOLM, JOHNHAVEN

1 Executive Summary/Recommendations

1.1 An Asset Transfer request has been received for the Mill of Benholm site in Johnshaven. The request has been considered by the Kincardine and Mearns Asset Transfer Group and now requires to be determined by the Kincardine and Mearns Area Committee.

1.2 The Committee is recommended to:

1.2.1 Consider the Asset Transfer application and supporting documentation from Mill of Benholm Enterprise for the transfer of the Mill of Benholm site;

1.2.2 Approve the Asset Transfer request in line with Officer recommendation and invite submission of an offer to purchase the Mill of Benholm site from Mill of Benholm Enterprise to be received within 6 months of the date of the Decision Notice;

1.2.3 Delegate authority to the Area Manager to instruct Legal and People to conclude the transfer of the Mill of Benholm site to Mill of Benholm Enterprise;

1.2.4 Agree that the purchase price should be set at a nominal sum of £1 which is below market value and takes into account the community benefit and works already undertaken on site.

2 Decision Making Route

2.1 Requests for Asset Transfers from community bodies are governed by the provisions of the [Community Empowerment \(Scotland\) Act 2015](#). Community bodies can request ownership, lease or other rights, as they wish. The Act requires local authorities to assess requests transparently against a specified list of criteria and to agree the request unless there are reasonable grounds for refusal.

2.2 As required by Section B.9.2.6 of the List of Committee Powers in the [Scheme of Governance](#), the Area Committee is required to determine the granting of the transfer of an asset to a community group and the terms and conditions of that transfer. This report seeks the approval of the Kincardine and Mearns Area Committee to transfer the Mill of Benholm site to Mill of Benholm Enterprise.

2.3 The determination of an Asset Transfer Request is a quasi-judicial matter. Therefore, Members must have regard to the provisions of Section 7 of the

[Councillors' Code of Conduct](#), in particular the duty to ensure a proper and fair hearing of the application.

2.4 The Committee must therefore determine the application presented based on the statutory criteria as set out below and in line with [Aberdeenshire Council's Asset Transfer Policy](#):

- The reasons for the request
- Any other information provided in support of the request
- Whether agreeing to the request would be likely to promote or improve
 - Economic development
 - Regeneration
 - Public health
 - Social wellbeing
 - Environmental wellbeing
- Whether agreeing to the request would be likely to reduce socio-economic inequalities
- Any other benefits that might arise if the request were agreed to,
- How the request relates to the relevant authority's duties under Equalities legislation
- Any obligations that may prevent, restrict or otherwise affect the authority's ability to agree to the request.

3 Discussion

3.1 An Expression of Interest form was submitted by Mill of Benholm Enterprise on 5 May 2023 requesting full transfer of the Mill of Benholm site. Officers of the Kincardine and Mearns Asset Transfer Group met on 15 June 2023 and agreed that the group should be invited to submit a formal Asset Transfer application.

3.2 Subsequently a formal Asset Transfer application was received and validated on 28 August 2023. In line with the Community Empowerment (Scotland) Act 2015 this now prevented the Council from disposing of the site to anyone other than the community transfer body until the whole process is completed. A valid application must be determined within 6 months and in this instance no later than 29 February 2024.

3.3 Once an application is validated the local authority are required to put up notices at the site and publish the information [online](#). The public then have at least 20 working days in which to make representation. A total of 63 representations of support were received with no objections raised.

3.4 Mill of Benholm is a Grade A listed water powered meal mill with ancillary buildings on a site extending to approximately 7 acres. It was purchased by Kincardine and Deeside Council in 1986 and was closed in 2014. Since, then there have been various options explored to re-open the site again which have been unsuccessful.

- 3.5 Mill of Benholm Enterprise (MoBE) are a Scottish registered charity (SC047943) set up to advance heritage by preserving and developing the historic Mill of Benholm site within the local unique environment. Their aim is to restore the buildings and the wider site and re-open again as a community hub, heritage and visitor attraction. Their objectives are to initially enable safe access onto the site for members of the public to be able to enjoy walking along the path network, which link into the neighbouring Mill Brae Woods, for which they are in discussions to secure a lease from the landowner.
- 3.6 The Business Plan sets out their strategy in a phased approach to gradually restore the site and buildings and provide a sustainable long-term solution for the organisation and Mill of Benholm site. The plan includes environmental improvements helping to contribute to health and wellbeing, educational outcomes, preservation of the Grade A listed asset, contribute to the local tourism sector by increasing spend and dwell time in the area by strengthening place-based outcomes and active travel links and enhance the whole conservation area of Benholm. The phased approach aims to ensure that the plan is both realistic and achievable.

Preliminary Phase - MoBE were keen to undertake works as soon as possible to prevent further deterioration of the site and stem the overgrowth of vegetation which should ideally be undertaken over the winter months. MoBE were also successful in securing funding to employ the services of a specialist company to clear the overgrowth within the pond. As a result, Aberdeenshire Council agreed to enter into a short-term Legal Agreement with MoBE to allow them to undertake specific pieces of work on site and also allow them to reopen the toilets for use by the Trustees, volunteers and contractors whilst on site. MoBE were made aware that this in no way would influence the determination of the Asset Transfer which was currently going through due process.

On successful transfer of the site, MoBE plan to undertake works in two phases as follows:

Phase 1 – Undertaking initial works to open up the site to the public again, including many walking and cycling groups:

- To undertake immediate repairs to buildings and site to stop further deterioration and make the site safe to open up to the public again.
- Undertake repairs to the water structures (lade, pond and wheel) to prevent the risk of losing the water structures altogether.
- Clean up the signage around the site and replace or add signs where needed.
- To commence works to restore the mill mechanism to working order, enabling it to be used for demonstrations, skill teaching and education.
- Income will be generated through a mobile catering unit, utilising the car park for car boot sales, events in the courtyard and open grass areas, camper vans staying overnight in the car park, activities for children and adults in the woods and the Mill site, organised talks about milling, conservation, farming and historic baking.

Costings for this phase have been calculated at approximately £188,800 and MoBE have already submitted funding applications to the Levelling Up Community Ownership Fund, UK Shared Prosperity Fund and Place Based Investment Programme.

Phase 2 – Continues to build on the previous work undertaken in Phase 1:

- To restore all buildings and develop the indoor spaces and install a new café.
- Enhance the site to develop it further as a tourist attraction for children and adults, increase learning facilities, provide better facilities for overnight camper vans, install electrical charging points for cars, reinstate the former path from the Mill of Benholm to Benholm Kirk to connect both sites.
- Installing renewable energy sources.
- Utilise the site for weddings, private events, skill teaching and community events to give local artist areas to exhibit their artwork, local baking and cooking classes with local ingredients and recipes, with exhibitions in conjunction with the Johnshaven Heritage Hub and Benholm Kirk.
- Setting up glamping pods in the grounds.

Phase 2 will only be initiated on successful completion of Phase 1 works which is expected to take between 1 – 3 years to complete all elements. The second phase will further enhance the Mill of Benholm to make it a more attractive visitor destination and increase the facilities on offer to the local community. Plans include a permanent café with indoor and outdoor spaces being developed to be let for events. Workshops and skills training will be developed by partner organisations and new facilities provided to enhance the site for tourists.

The ultimate aim of MoBE is to create a recreational area in the south of Aberdeenshire to enable charities and other groups and organisations to have suitable outdoor as well as indoor space to enhance their mental and physical wellbeing. Discussions have taken place with local schools, Scout groups and Guides on potential future uses of the site and buildings. They also plan to work with other organisations such as Historic Churches Scotland, Society for the Protection of Ancient Buildings, Scottish Community Tourism Organisation, Visit Aberdeenshire, Johnshaven Heritage Hub to promote the area as a visitor destination.

In support of the Asset Transfer Request, MoBE engaged the services of a consultant to produce a report on potential funding streams both for revenue and capital works. This links to the phased approach in the business plan. In addition, they commissioned a Conservation Consultant to undertake a Conservation Plan to assist with future funding applications to bodies such as Historic Environment Scotland and the National Lottery Heritage Fund for future restoration works to buildings and infrastructure.

- 3.7 The property was independently valued and has a potential market value of £80,000. Following an analysis of the community benefits using the “Best Value Consideration” template, Officers have determined that a nominal value of £1 should be applied to the transfer. This takes into consideration the

anticipated costs to restore the site and buildings and deliverability of their latest Business Plan which is considered to be more realistic in terms of the funding being sought.

- 3.8 The Officers on the Kincardine and Mearns Asset Transfer Group having considered the application and supporting information felt that the business plan was more realistic in deliverability than previous proposals with a greater focus on the outdoor aspects of the site and the addition of a mobile café initially. It was acknowledged that there were risks in taking on a Grade A Listed asset and there would be challenges to be overcome, but the current members of the community group appeared to have the drive and determination to succeed. As a result, Officers recommend that the Asset Transfer request is approved.

4 Council Priorities, Implications and Risk

- 4.1 This request may help to deliver the following:

Pillar	Priority
Our People	Health & Wellbeing
Our Environment	Resilient Communities
Our Economy	Infrastructure and public assets

- 4.2 The table below shows whether risks and implications apply if the recommendation is agreed.

Subject	Yes	No	N/A
Financial	X		
Staffing		X	
Equalities and Fairer Duty Scotland		X	
Children and Young People's Rights and Wellbeing		X	
Climate Change and Sustainability	IIA attached as Appendix 1		
Health and Wellbeing	IIA attached as Appendix 1		
Town Centre First		X	

- 4.3 There are no staffing implications arising from this report.
- 4.4 The property has been valued at £80,000 for an outright sale. Therefore, there is a potential loss of a capital receipt to the Council if the building was sold on the open market, but the Community Empowerment (Scotland) Act puts an onus on local authorities to agree to any Asset Transfer request unless there are reasonable grounds for refusal. In this particular case it is felt that there are strong community benefits to be achieved from the transfer.

4.5 An integrated impact assessment has been carried out as part of the development of the proposals set out above. It is included as Appendix 1 and there are positive impacts as follows:

- **Exercise and physical activity** - Works will include cutting back of vegetation to open up a network of paths around the site along with the neighbouring woodland. The site offers a woodland setting with natural habitat for people to walk around and enjoy nature.
- **Mental health** - Being able to get outdoors and walk has been demonstrated to have a positive impact on people's mental health and wellbeing. The site offers an opportunity for allotments and community gardens to be created further providing an opportunity to improve people's mental health and wellbeing.
- **Quality of environment** - The group plan to clear the overgrown vegetation and open the site out again to the wider public to enjoy including walking around a network of paths. These works will improve access to the wider community to be able to get outside and enjoy the natural environment.
- **Wildlife and biodiversity** - The site is designated as a local Conservation Nature site. There are plans to create a forest school, community gardens/allotments, work with local schools and the Ranger Service on educational projects such as nature surveys (moths, bats, mammals, butterflies and flora), build bee hotels, squirrel feeding stations and many more nature related activities to encourage wildlife to the area. Works have already started to clear back invasive species and allow the natural flora to flourish again. The pond will be cleared of weeds to allow it to operate again as well as the lade and reed bed so that the waterwheel can operate again.

4.6 The following Risks have been identified as relevant to this matter on a Corporate Level:

- ACORP001 Budget pressures – there are ongoing maintenance costs associated with this building.
- ACORP005 Working with other organisations – the community group may not deliver on their proposal.

[Corporate Risk Register](#)).

The following Risks have been identified as relevant to this matter on a Strategic Level:

- BSSR006 - Support Community Asset Transfer - [Business Services Directorate Risk Register \(aberdeenshire.gov.uk\)](#).
- ISSR008 – Placemaking – supporting communities to help themselves, enabling wealth building that supports local economic opportunities. [Infrastructure Services Directorate Risks \(aberdeenshire.gov.uk\)](#).

5 Scheme of Governance

- 5.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.
- 5.2 The Committee is able to consider[and take a decision on this item in terms of Section B.9.2.6 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to the determination of the granting of a transfer of an asset to a community or voluntary group and the terms and conditions of that transfer.
- 5.3 Where the Committee does not agree with Officers' recommendations or existing Council policy, the Scheme of Governance provides that the decision must be referred to the appropriate Policy Committee for determination.

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Report prepared by Tim Stephen, Kincardine and Mearns Area Manager Kincardine
Date: 28 November 2023

List of Appendices:

- Appendix 1 – Integrated Impact Assessment
- Appendix 2 – Asset Transfer application & supporting documents
- Appendix 3 – Summary of Cost Benefit Analysis