

ASSET TRANSFER UNDER THE COMMUNITY EMPOWERMENT ACT

DECISION NOTICE - REFUSED

To: Mr Alan Venters, Vice President, Mackie Academy FP Rugby Football Club

Address: Ardgour, Kirk Road, Stonehaven, AB39 2DX

8 March 2023

This Decision Notice relates to the asset transfer request made by **Mackie Academy FP Rugby Football Club** on **6 October 2021** in relation to **Forest Park, Stonehaven**.

Aberdeenshire Council (“the Council”) has decided to **refuse** the request.

The reasons for this decision are as follows:

- The application does not meet the criteria required as provided for in Part 5 of the Community Empowerment Scotland Act 2015, Section 82. In that the request would not promote or improve economic development, regeneration and public health would be diminished in the adjacent neighbourhood through the loss of the protected Forest Park. The Council took into account that any benefits in terms of public health would largely be restricted to those members of the Rugby Club and all residents of the community would no longer have open access to the entirety of the protected Forest Park and the subsequent amenity provided by the site. The Council considered that access to the park promoted the health and wellbeing of residents and the proposed asset transfer would therefore be detrimental to the benefits currently provided by the alternative proposal.
- The proposed asset transfer would be contrary to 82(3)(d) in that it would induce inequality of outcome in respect of social disadvantage concerning the neighbourhood community by resulting in the loss of the protected Forest Park. The Council took into account that all the residents of the community would no longer have open access to the protected Forest Park and the health and social benefits provided by the site.
- The proposed asset transfer is also contrary to section 82(4) in that equal opportunities are neither encouraged nor observed by the proposed asset transfer which would reserve equal opportunities provided by the requirement for provision of and protection of Forest Park arising from the scale of residential development at the former Mill of Forest Farm and as site specific benefit for the developed neighbourhood and the town in terms of access to green space. The Council took into account the accessibility of Forest Park in

terms of level access and put weight on the value of having that open and available to all members of the community.

- The level of community support for the alternative proposal to maintain the ground's current use as open amenity space for general public use would promote community cohesion and resilience. The community had shown through the level of opposition to the application that it valued the protected Forest Park as a community asset. The Council weighed up the level of community support for the alternative proposal and considered this to be a material factor which outweighed the benefits of the proposal.

The Council therefore concluded that there were reasonable grounds to refuse the request for the above reasons.

Right to Review and Appeal

If you are dissatisfied with the decision contained in this Decision Notice you may apply to the Council to review this decision in which event the Council are obliged to carry out a review of the case.

Any application for review must be made in writing to the Council at Kincardine & Mearns Area Office, Viewmount, Arduathie Road, Stonehaven, AB39 2DQ by 6 April 2023, which is 20 working days from the date of this notice.

In the event of the Decision Notice which is issued following your making an application to the Council to review this decision is to your dissatisfaction you are entitled to appeal to the Scottish Ministers. Guidance on making an application for review and appeal is available at www.gov.scot/policies/community-empowerment/asset-transfer.

Bruce Stewart
Area Manager Kincardine & Mearns