



Greenpark Drive, Polmont FK2 0AA

Malcolm Bennie
Director, Place Services
Falkirk Council
Falkirk Stadium
4 Stadium Way
Falkirk
FK2 9EE

25th February 2025

Dear Malcolm,

**Polmont Playgroup
Falkirk Council (the "Council")
Community Asset Transfer – Action Outdoors Centre, Canal Bridge, Brightons, FK2 0AA
Application for Review in Terms of Section 86 of the Community Empowerment (Scotland) Act
2015**

This letter serves as notice of application for review to the Council by Polmont Playgroup, a Scottish Charitable Incorporated Organisation (Charity Number SCO53631) and having its registered address at Greenpark Community Centre, Greenpark Drive, Polmont, FK2 0PZ, regarding the Decision Notice issued by Paul Kettrick on behalf of the Council to Polmont Playgroup dated 4 February 2025 (the "Decision Notice"), in relation to the said Polmont Playgroup's Community Asset Transfer Request for the Action Outdoors Centre, Canal Bridge, Brightons, FK2 0AA (the "Property"). A copy of this Decision Notice is enclosed for ease of reference.

This application for review is made under Section 86(1)(b)(ii) of the Community Empowerment (Scotland) Act 2015 where the authority *agrees to the request but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request.*

Polmont Playgroup considers that the following Principal Heads of Terms set out in the Decision Notice should be reviewed by the Council for the following reasons:

- (a) Paragraph (4) – *"Each party will be responsible for their own legal expenses in connection with the transfer but the applicant will meet the costs of any necessary outlays incurred for example copy deeds, property searches, plan reports, coal mining reports, property enquiry certificates and others"*
 - (a)(i) Polmont Playgroup's application stated that both parties are to meet their own legal expenses. Polmont Playgroup in their application did not offer to meet the outlays of the Council in the matter and therefore, this term is materially different to the request. It would be commonplace by the Seller of any property in Scotland, at their own expense, to provide the title deeds to the property being sold and to provide a full suite of conveyancing searches for the Purchaser's consideration. Therefore, Polmont Playgroup request that these terms are reviewed so that the Council shall meet the costs of the outlays listed in Paragraph (4) of the Principal Heads of Terms in the Decision Notice.

- (b) Paragraph (5) – “Falkirk Council will retain a right of first refusal over the property in certain specified circumstances, as follows: -

In the event that (1) the property is to be sold or otherwise disposed of by Polmont Playgroup, (2) Polmont Playgroup is wound up or (3) Polmont Playgroup no longer use the property for the use proposed by them or a use which is substantially the same, the Council will be entitled to the option of first right of refusal to reacquire the property. Such right to reacquire the property shall be for the same price for which it was transferred by the Council to Polmont Playgroup or such other price as is considered reasonable in all of the relevant circumstances by the Director of Place Services. The right of first refusal to reacquire the property shall not, however, operate in the event of a sale, disposal or transfer by/from Polmont Playgroup to another charitable body which has objectives which are substantially the same as those of Polmont Playgroup and which would result in the property continuing to be used for a use which is substantially the same as the use proposed by Polmont Playgroup”

(b)(i) The Council’s right of first refusal as presently offered shall run in perpetuity. Falkirk Council shall always retain the right of preemption over the property but that after 5 years from transfer of title this should be at market value based on current use, less the depreciated value of any capital funding granted by Falkirk Council to upgrade the property; and

(b)(ii) Polmont Playgroup intend to invest in various improvements for the Property at their own cost, in addition to £21,419 being funded through the Council’s Enablement Fund for further improvements to the Property. Therefore, in the first 5 years after transfer of title, the price of the re-acquisition of the Property (should the Council choose to exercise their right) should be on terms acceptable to both parties, that reflect the financial contribution made by the Council. This shall be the market value of the Property at the time of re-acquisition, less the sum of the Enablement Fund contribution by the Council; an example of such terms could be:

Year 1 - £1

Year 1 - Year 2 – 10% of market value less the value of the enablement fund awarded by Falkirk Council to upgrade the property

Year 2 - Year 3 – 25% of market value less the value of the enablement fund awarded by Falkirk Council to upgrade the property

Year 3 - Year 4 – 50% of market value less the value of the enablement fund awarded by Falkirk Council to upgrade the property

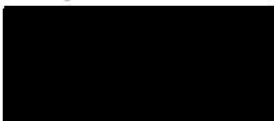
Year 4 - Year 5 – 75% of market value less the value of the enablement fund awarded by Falkirk Council to upgrade the property

(b)(iii) The trigger for repurchase as set out in point 3 of Clause 5 should read:
“Polmont Playgroup no longer use the property for the use proposed by them or a use which complies with their charitable purposes as approved by the Office of Scottish Charities Regulator (OSCR)”

Polmont Playgroup wish to make clear their continued commitment to taking ownership of the Property to deliver benefit to the local area. Polmont Playgroup wishes to work with the Council to find acceptable conditions under which to complete the transfer of the Property and to work in constructive partnership with the Council in the future to ensure the success of the centre and benefit to the community.

Polmont Playgroup propose that the Review is conducted by written submission and an in-person hearing.

Yours sincerely

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Polmont Playgroup
25th February 2025