

Email: [REDACTED]

Our ref: LG/Polmont Community Hub SCIO

24 March 2025

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

Dear Malcolm Bennie

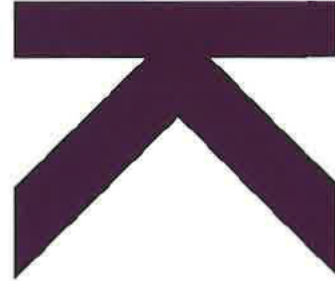
Polmont Community Hub SCIO
Request for Review of Decision
COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015
Greenpark Community Centre and associated land

On behalf of our client, Polmont Community Hub SCIO, we hereby enclose a request to review a Decision Notice issued by Falkirk Council in relation to an asset transfer request made by them under the Community Empowerment (Scotland) Act 2015.

If you have any questions or require any further information, please contact Lauren Grant on the email address noted at the top of this letter.

Yours sincerely

[REDACTED]
Associate
Kerr Stirling LLP



Kerr Stirling
Solicitors

Incorporating
Gibson & Kennedy

Reply to:

10 Albert Place, Stirling FK8 2QL Telephone 01786 463 414 Facsimile 01786 451 395 DX DX ST 9 Stirling

Benview, Wellside Place, Falkirk FK1 5RP Telephone 01324 622741 Facsimile 01324 611559 DX FA 8 Falkirk

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COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015
REQUEST FOR REVIEW OF DECISION
POLMONT COMMUNITY HUB SCIO
(Company Number CS006951 Charity Number SC053456)

DECISION NOTICE DATE: 25 FEBRUARY 2025

Request By: Polmont Community Hub SCIO, a registered Scottish Charity (Charity Number SC053456) and having its registered address at Greenpark Community Centre, Greenpark Drive, Polmont, FK2 0PZ ("PCHS").

Contact Details:

Name: [REDACTED]

Email: [REDACTED]

Date: 21 March 2025

Request Submission Deadline: 25 March 2025

Property: Greenpark Community Centre and associated land.

Relevant legislation:

- Community Empowerment (Scotland) Act 2015 s.86(2) ("2015 Act").
- The Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016

Request

Removal of Condition 5 of the Decision Notice ("right of pre-emption").

Reason for Request

PCHS are seeking that Condition 5 of the Decision Notice is removed ("right of pre-emption"). PCHS are seeking the removal of this condition on the following basis:

Funding Opportunities

- PCHS are in the process of applying for funding from the Scottish Land Fund in order to fund the development of the community asset. PCHS have been advised by Scottish Land Fund that they will be unable to provide funding for the project on the basis that the right of pre-emption renders PCHS ineligible for funding from the Scottish Land Fund.
- The Scottish Land Fund have advised that community control of the asset is an integral consideration in relation to funding applications and any decisions in respect of the future use of the asset should be made by the local community and in accordance with our governing documentation which is also at odds with the right of pre-emption.
- PCHS have also received correspondence from COSS on similar lines to that of the Scottish Land Fund.

- Any future sale of the asset should be on an open market basis and any right of pre-emption should be based on the same. The concept of a right of pre-emption is that the holder of the right would be entitled to a right of first refusal based on an open market sale
- Condition 5 of the Decision Notice seems to be at odds with the purpose of the 2015 Act. The purpose of the 2015 Act was to empower communities to improve facilities within their area and to have the opportunity to develop their community spirit as a result.
- The right of pre-emption effectively allows the Council at any time in the future to recover the asset for a nominal sum, taking no account of the community's time, effort and funding going into the development of the asset.
- Notwithstanding the above, the Decision Notice has been granted on the basis of PCHS's development proposals. The existence of the right of pre-emption renders the development proposals impossible as the funding required to carry out the development is inaccessible as a result.
- Condition 5 of the Decision Notice also does not seem to be in line with the Council's own objectives for developing stronger communities.

Development Opportunities

- PCHS have laid out development plans for this asset and as part of the future development, it may be that a decision is made to assign some of the land to a substantially different community benefit project. The right of pre-emption restricts the community led body from making future decisions to benefit the community. We would expect that Falkirk Council would not be seeking to impose such a restriction.

Should Falkirk Council be unwilling to remove the pre-emption right in its entirety, PCHS would request that Falkirk Council consider Condition 5(3) is amended to the extent that the right of pre-emption is exercisable on the basis of Falkirk Council having the right of first refusal to purchase the asset on the current market value at the time that the right is exercised.

It should be noted that PCHS have no immediate plans to sell or otherwise dispose of the asset in whole or part. However, PCHS do wish to retain community control over the asset and make decisions and plan for the future of the asset over the course of time and to meet the needs of the community as assessed by PCHS in consultation with members of the community.

PCHS is a community led charitable organisation with the interests of the local community at its core.

Annexed to this formal request are pieces of correspondence received from the funder mentioned within this request and a location plan in respect of the asset as well as a copy of PCHS's application outlining their development proposals.

Enc.

- 1. PCHS Asset Transfer Request Form**
- 2. Decision Notice**
- 3. PCHS Constitution**
- 4. Emails from [REDACTED] at Scottish Land Fund**