



Vacant National Park Authority Asset in Luss

Agenda Item 8

National Park Authority Board Meeting
26 September 2022

Paper for decision

Contents

1. Purpose.....	1
2. Recommendation	1
3. Contribution to National Park Partnership Plan and/or Our 5-year Plan.....	2
4. Background	2
5. Considerations	4
9. Appendices	7

1. Purpose

1.1. The purpose of this paper is to:

1.1.1. Provide an update to Members following the decision by Members, on 14th March 2022, approving that officers begin a process to instigate the disposal of the vacant Luss Visitor Centre; and

1.1.2. Seek approval from Members of the next recommended course of action.

2. Recommendation

2.1. It is recommended that Members:

2.1.1. Approve that officers proceed with the process to dispose of the vacant asset in Luss (being the former visitor centre and associated land) as included in Title Number DMB76038 (see Appendix 1); and

- 2.1.2. Approve that the decision to dispose on the open market or to another public body is delegated to the Chief Executive as Accountable Officer, provided all required Scottish Government approvals are in place.
- 2.1.3. There are statutory and Scottish Government processes for each route to disposal, that shall be followed. If the National Park Authority receives an Asset Transfer Request, the Board will be updated in advance of validation.

3. Contribution to National Park Partnership Plan and/or Our 5-year Plan

- 3.1. The disposal of the vacant asset at Luss has the potential to support the priorities set out in our National Park Partnership Plan and Our 5-Year Plan. The following are particularly relevant:

NPPP Outcome 13: Community Empowerment

The Park's communities are supported to influence and deliver actions that improve their quality of life and place.

Our 5-Year Plan - Priority 2: Visitor Infrastructure

We will invest strategically and create a multiple year capital investment plan for our visitor sites and facilities to improve the quality of the visitor experience, create economic and public benefits, and ensure efficiencies in the costs of operating and maintaining our assets.

Our 5-Year Plan - Our Enablers: Finance

We will prioritise our budgets, pursue opportunities for reducing costs, evidence best value, maximise and leverage alternative sources of funding to help us deliver our strategic priorities.

4. Background

- 4.1. The National Park Authority owns a former visitor centre in Luss (the "Property"), along with a large, grassed area referred to as the picnic area, and an "island" of land in the adjacent Argyll and Bute Council car park (the "Land"), both the Property and Land shown outlined in red on the plan forming Appendix 1.
- 4.2. The Land and Property were transferred to the National Park Authority via a Property Transfer Order by Argyll and Bute Council in 2004. Other assets managed by the National Park Authority in Luss comprise a public toilet block adjacent to the Argyll and Bute Council car park and Luss Pier, including the vacant shop.

- 4.3. The Property last operated as a café/visitor centre and has been vacant since 2018. It last functioned as a National Park Authority Visitor Centre in 2009/10. Public toilets were provided by the National Park Authority at the Property until 2014. Thereafter the public toilets were cleaned and maintained by the National Park Authority and stocked by the tenant. Costs and service levels relating to the provision of toilet facilities at the Property were an ongoing issue. Alternative toilet provision is available in Luss, via a separate, nearby, public toilet block which is managed by the National Park Authority.
- 4.4. The Property is classified as Use Class 10 of the Use Classes Order which means it is a 'non-residential institution' in terms of planning status. Any change of use would require planning permission.
- 4.5. In 2021, the National Park Authority constructed a dedicated car park with EV charging points and a bin store to serve the Property in preparation of its marketing.
- 4.6. The Land is maintained by the National Park Authority. The Land is mostly laid to grass and in the Local Development Plan is partly identified as Open Space, i.e. land used for informal recreation, which means new development is generally not supported.
- 4.7. In 2021, a marketing process was carried out, with input from the Community Council, to find a tenant for the Property, with the aim of securing a regular rental income along with an improved visitor experience and benefits for the community. This was initially successful, with Luss Estates Company being identified as the preferred bidder. Negotiations took place with the preferred bidder over the terms of the lease during the following months, however in February 2022, the preferred bidder withdrew from the process, citing uncertainty over the economic climate.
- 4.8. Following the withdrawal of the preferred bidder, the situation was reviewed by officers and the following three options were identified for the Property and the Land and were presented to Members in the Board's March meeting:
- a) Disposal;
 - b) Operational use by the National Park Authority (and re-purposing of the Property); and
 - c) Re-market the Property for a new tenant.

- 4.9. Considering the commercially sensitive information included in the March Board report, this item was considered in a publicly excluded part of the meeting. Further background information regarding each of these three options is however included in Appendix 2.
- 4.10. Disposal of the vacant asset (by asset transfer to an eligible community organisation or sale on the open market) was considered by officers, on balance, to be the preferred option.
- 4.11. On 14 March 2022, Members approved that officers begin a process to instigate the disposal of the vacant Property and Land, noting that a detailed review of the requirements and process would be undertaken.
- 4.12. It was acknowledged by officers and Members that the preferred route for disposal of the vacant asset would be to an eligible community organisation, provided that it could satisfy the various legislative requirements and demonstrate a viable enterprise to bring benefits to their community and visitors.

5. Considerations

- 5.1. Since the Board meeting on 14th March 2022, officers have:
- 5.1.1. clarified the process for disposal of an asset, as set out in the Scottish Public Finance Manual, and engaged with Scottish Government sponsor team to confirm next steps;
 - 5.1.2. started investigating the process and marketing costs with property agents to obtain quotes and route to market which offers Best Value;
 - 5.1.3. discussed the proposal with the adjacent landowner, Argyll and Bute Council (“ABC”), to establish whether ABC may be interested in all or part of the Land and Property, especially the land which lies adjacent to and within ABC’s car park;
 - 5.1.4. explored the interest of local community groups and engaged with the Luss & Arden Community Council and Luss and Arden Community Development Trust (the “Trust”); and
 - 5.1.5. sought advice and guidance from the Community Ownership Support Service (“COSS”) and the Scottish Government Community Empowerment Team.
- 5.2. An Asset Transfer Request, under the Community Empowerment (Scotland) Act 2015 (the “Act”) for the Property and Land, was received from the Trust on 13th June 2022.

- 5.2.1. Members should be aware that Part 5 of the Act introduced a right for eligible community bodies to make requests to a range of public authorities, for land or buildings they could make better use of. Such bodies can request transfer of ownership, lease, or any other rights they wish. Public authorities are expected to support community bodies in this endeavour and must transparently assess a request against a specified list of criteria laid out in the Act and agree to the request unless there are reasonable grounds for refusal. If a request is refused, a community group will have a right to appeal or to ask for a review of that decision.
- 5.2.2. Scottish Government: Asset Transfer Guidance for Authorities further clarifies the process to be followed and Part 4 of this guidance is included at Appendix 4. There is a lot of advice and support available to community organisations, and officers have advised the Trust to obtain support from organisations such as COSS and the Scottish Land Fund.
- 5.2.3. In this case, officers were unable to validate the Asset Transfer Request, due to the Trust not satisfying the legal requirements for community organisations seeking ownership. The Trust has been provided with detailed feedback and advice, including where specialist support is available. The Trust has advised it is preparing to update its governance arrangements and is currently considering whether it will submit a further request.
- 5.2.4. In relation to planning status, it is noted that the Property falls under Use Class 10 of the Use Classes Order as a ‘non-residential institution’. This means any change of use would require planning permission and this may have some impact on the interest. The Land is partly identified as Open Space – land used for informal recreation – in the Local Development Plan which therefore means new development is generally not supported.
- 5.2.5. The Property and Land were transferred to the National Park Authority from Argyll and Bute Council in 2004. Formal access and wayleave rights across the adjacent land – the Council’s car park – to the public road were not included in the title. Council officers have indicated that these rights will be formally granted in favour of the National Park Authority, but the necessary legal documents (Deeds of Servitude) will require to be negotiated and signed. This requires to be concluded to maximise the opportunities for disposal of the Property and Land, though timescales from the Council have not been confirmed.
- 5.2.6. Given the planning status of the Land, as described at 4.2 above, the Land would ideally be transferred to ABC as adjoining landowner, rather than disposed of on the open market

6. Asset Disposal Process

6.1. The process note attached at **Appendix 3**, sets out the various requirements that the National Park Authority will need to comply with, when disposing of an asset as set out in the National Parks (Scotland) Act 2000, Scottish Public Finance Manual and the Community Empowerment (Scotland) Act 2015.

6.2. The key steps in the disposal process, will be as follows:

6.2.1. National Park Authority to obtain consent from the Scottish Government sponsor team to proceed with the disposal.

6.2.2. National Park Authority to prepare a Property Pack for submission to the Property Division of Scottish Government. The National Park Authority is obliged to take reasonable steps to maximise the value of the asset, to the greatest extent possible. For example, it will be beneficial to formalise access and wayleave rights as soon as possible, to provide confidence for any interested parties as well as maximising the value.

6.2.3. Scottish Government Property Division to advertise the asset to other public authorities for a period of four (4) weeks, to establish whether any public authorities wish to purchase the property.

6.2.4. If no public authorities come forward, the National Park Authority may advertise the asset on the open market.

6.3. During the disposal process referred to in paragraph 6.2 above, if the National Park Authority receives and validates an Asset Transfer Request from a community transfer body, the Act provides that an authority will not be able to sell, lease or otherwise dispose of the asset it relates to, to anyone other than the community transfer body that made the request, until that process is completed. This means that the disposal process will effectively be put 'on hold' until the Asset Transfer Request has been decided and any reviews/appeals have taken place. Members should be aware, that National Park Authority may be obliged to consider leasing the Property and Land to an eligible community transfer body, in event that a valid and sufficient Asset Transfer Request is made. In that event the National Park Authority would remain the owner of the Property and Land.

7. Financial Position

7.1. Within the draft Annual Accounts at 31st March 2022, to be presented to the Board on 12th September 2022, the Property has been re-classified

as a surplus asset based on the Board decision of 14th March 2022 to begin the process to instigate the disposal of the Property.

7.2. The asset is no longer considered a specialised operational asset and the valuation basis changed from depreciated replacement cost to market value, resulting in a reduction in the carrying value of the asset in our Accounts.

8. Next Steps

8.1. If Members approve the recommendation as set out above, the next step will be for the National Park Authority to confirm sponsor team approval to dispose of the asset. The process for asset disposal as set out in **Appendix 3** will then be followed. Simultaneously, officers will continue to liaise with the Trust, to ensure it is clear on the disposal process and timelines as well as to continue to signpost them to sources of community empowerment support and advice to inform their own consideration of a community led interest.

9. Appendices

Appendix 1 - Title Number DMB76038 – Title Plan

Appendix 2 – Background information regarding options for Property and Land

Appendix 3 – NPA Process Note - Disposal of asset

Appendix 4 – Scottish Government: Guidance for Relevant Authorities – Part 4 – Summary of Asset Transfer under Community Empowerment (Scotland) Act 2015. (<https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-relevant-9781786527493/pages/4/>)