

PROPOSED LEASE OF LAND AT BELLFIELD PARK, BANCHORY

REPORT TO MARR AREA COMMITTEE - 22 MAY 2018

1 Recommendations

The Committee is recommended to:

- 1.1 Agree to the disposal of the common good land at Bellfield Park by way of lease to the Banchory Skatepark Group (BSG) for the purpose of constructing and assisting in the managing of a skatepark along the broad terms mentioned within the text of the report. The decision requested is entirely without prejudice to any future planning application that may be made by BSG for such a facility within the Bellfield Park, Banchory;**
- 1.2 Authorise the Head of Legal and Governance to obtain the common good order in relation to the disposal;**
- 1.3 Instruct the Area Manager (Marr) to write to the BSG to confirm the support of the Council to assist them with external funding bids; and**
- 1.4 Note that the Committee will be updated by bulletin.**

2. Background / Discussion

- 2.1** The existing skatepark ramp within Bellfield Park has been in situ for some time but is considered by those who use it as limited in terms of scale and the variety of skating it can offer. The BSG, with the help of others, have made improvements to the ramp, but their aspiration is to develop a much better facility, using the existing site and adjacent land, to offer an improved experience for users. A sketch/plan provided by the BSG is attached as Appendix 1 showing indicatively the area (coloured in grey) that they would hope to be allowed to develop in addition to the existing skatepark for the proposed new skatepark. The extent and location have to be considered "indicative" at this stage as a planning application will require to be made, in time, for the proposal and there may be changes that will require to be made reflecting issues that may emerge from that process and potentially following detailed site investigations. It is understood that the planning application will come forward as and when sufficient funds have been raised towards the project and following further consultations.
- 2.2** Generally, before external grant funding organisations will consider funding such a proposal, they usually request applicants to provide evidence of support and/or confirmation that a lease will be granted by the landowner. This would usually have to be for a sufficient length of time, commensurate with the level of the grant award sought, before they will progress with a funding application. This is particularly so for the larger awards available through The National Lottery, although all funders appear to have different criteria and procedures in connection with considering such proposals. The

most appropriate way of demonstrating that security of tenure for a period of years will be available is, in the Aberdeenshire Council context, to have a decision of the appropriate Area Committee on the matter.

- 2.3 Children's play areas and skate parks, unlike some other facilities, are regularly provided as free to use facilities within public parks. That will be the case in this instance. This is unlike some other sporting facilities where a charge for use may be made, through club membership or on a pay as you play basis. Where the Council has entered into lease arrangements elsewhere for the creation or refurbishment/augmenting of existing play areas and skate parks, the Council has agreed to charge nominal rents and Landscape Services have, in terms of the lease conditions, agreed to retain some responsibilities for maintaining and inspecting the facilities. In that way the public indemnity insurance covering use of the facilities remains with the Council. In that way, not all of the burden falls on fundraising groups concerned, who may have limited scope and ability to raise funds and to cover what can be high insurance premiums. Any continuing fund raising by the play area or skate park groups, beyond that required for the creation or improvement scheme concerned would be for major up-grades or the more major repairs which the Council will not normally fund.
- 2.4 Any leases proposed to be granted for areas within public parks are usually done on the basis of restricted use clauses and will have vehicle access to the leased site restricted for initial construction and future maintenance purposes only. It is also considered appropriate to have an early termination clause in favour of the landlord which may be exercised in the event that the site leased is required for some other development proposal in the future. This is more to preserve the ability to resume possession of a site in the event of any major re-working/redevelopment of a park or similar facility in a major public resource. Where grant funding is involved, it would be usual to include a caveat to the effect that, if resumption of the site were to be exercised within the lease period, the Council would require to replicate the facility that had been funded elsewhere in an appropriate alternative location. This affords the funding organisations the comfort of knowing that their "investment" through grant funding will be secured. This is usually restricted to design life of the facility, which is also usually the length of lease required by grant funders. In this case, a 25 year lease has been requested.
- 2.5 Legal colleagues have investigated the titles for Bellfield Park and it has been confirmed that it is considered to be held as a common good asset. As such, there are additional requirements to be satisfied before the granting of any lease can be progressed. For such assets, a common good order will require to be obtained, usually from a Sheriff, for any such leasing. Before a Sheriff will grant such an order, an appropriate community consultation will require to be carried out to demonstrate and evidence that there is support for the proposal. This would usually be done by the prospective tenant under the lease, in this case BSG, and would require to follow the practices set out in the National Standards for Community Engagement. Information/links to the Scottish Government website on how to do this has been supplied to BSG, who will be working with others to have this carried out. A summary/ description of the background to the BSG have done to date has been provided by the Area Project Officer and is attached at **Appendix 3**.

- 2.6 Ward 16 Members have been sent a copy of the draft report for information.
- 2.7 Landscape Services colleagues have been consulted and have no comments to make.
- 2.8 Sport and Physical Activity have also been consulted and have fed back that they do not have any human resource, financial or maintenance responsibility for this facility, and as such have no comment to make.
- 2.9 Legal and Governance colleagues have been consulted and had no comments to add.
- 2.10 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. They are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3. Scheme of Governance

- 3.1 The Marr Area Committee can consider and take a decision on this matter in terms of the List of Committee Powers in Part 2A of the Scheme of Governance, Section B 2.2 to determine the disposal of Common Good assets within their Area before a Common Good Order is sought from the Court.

4. Equalities, Staffing, Financial, Risk and other Implications

- 4.1 It is believed that an equality impact assessment is not required as the recommended action of agreeing, in principle, with the granting of a lease will not have a differential impact on people with protected characteristics.
- 4.2 There are no staffing implications arising from this report.
- 4.3 There are no significant capital or revenue implications anticipated in terms of this report.
 - 4.3.1 **Revenue** - Although the Council would have some responsibility for some day-to-day management and maintenance of the proposed skate park, and related public indemnity issue, that is already the case in terms of the present facility. It is proposed that the Council will only take responsibility for minor maintenance or repairs, and the group fundraising and commissioning the project would require to continue to fundraise, in future years, to cover major repairs or up-grades. As mentioned in 2.3 above, the rent for such facilities is usually nominal. There will be some legal costs involved in seeking/obtaining the common good order.
 - 4.3.2 **Capital** – Should application be made to the Council for capital grant funding towards the project, this would require to be the subject of a separate decision making process.

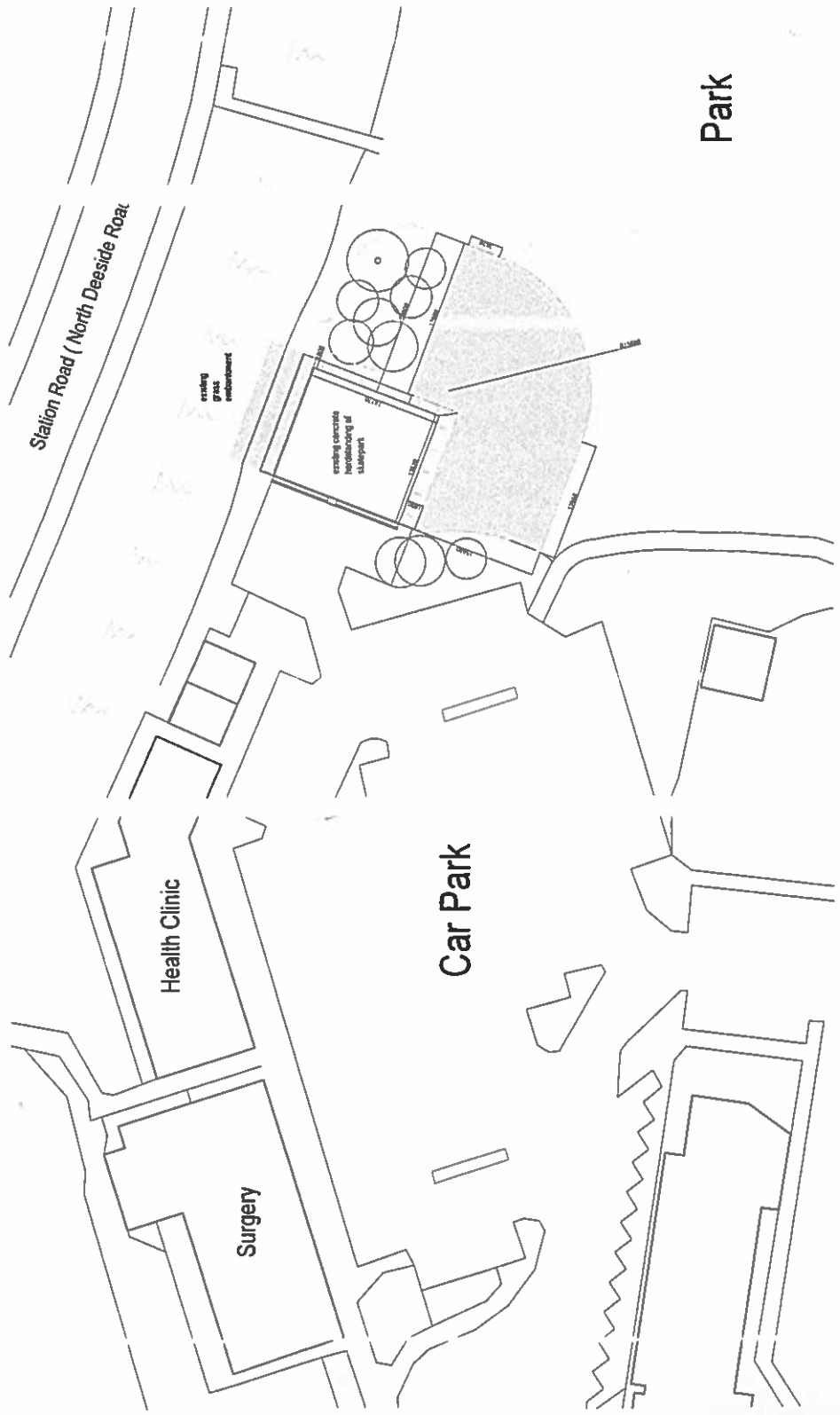
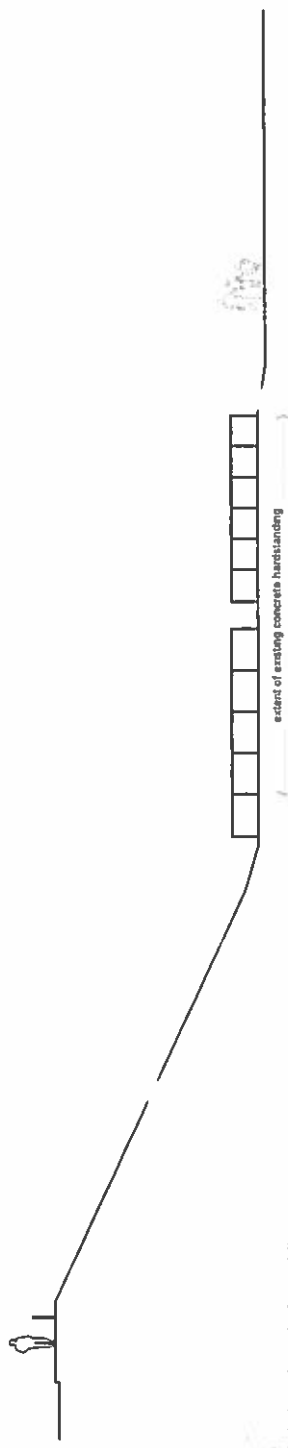
- 4.4 There are no Corporate, Strategic or Directorate risks identified in relation to this potential project.
- 4.5 A Town Centre Impact Assessment was carried out and is provided as Appendix 2.

Ritchie Johnson
Director of Business Services

Report prepared by: - Ron Davidson, Team Leader (Estates)
18 April 2018
g:/typists/Committee/Marrcom/K2377-1 Banchory Skatepark



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skatepark context as existing
 site plan 1:250

Park

APPENDIX 2

TOWN CENTRE FIRST IMPACT ASSESSMENT (TCFIA)

Aberdeenshire Council recognises that town centres have an important role to play in the sustainable development of local economies.

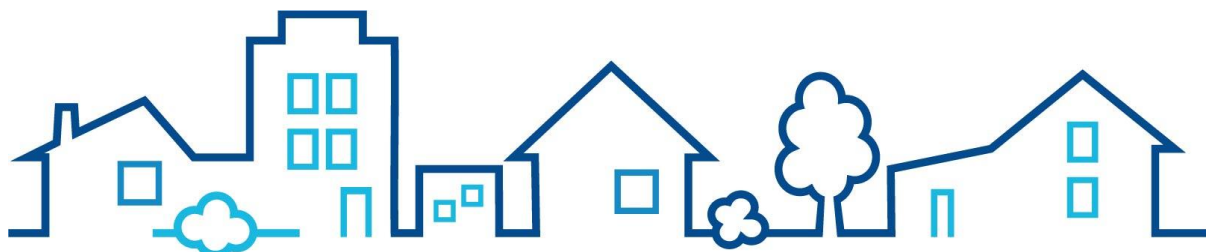
The Town Centre First Impact Assessment (TCFIA) allows officers in all services to identify the detrimental and beneficial effects that decisions we take may have on our town centres. It will allow officers to consider any implications that council decisions may have on Aberdeenshire's key town centres. Examples of this include changes to: the provision of civic and community facilities, employment land, retail, residential buildings, cultural assets, transportation, leisure and tourism.

A Town Centre Ambassador has been nominated within your service, you can locate your Town Centre First Ambassador through the Town Centre First Principle Arcadia pages.

Project Information	
Title of Committee Paper	Proposed Lease of Land at Bellfield Park, Banchory
Service	Business Services
Department	P&FM (Estates)
Author	Ronald C Davidson
Have you consulted your Town Centre First Ambassador?	

1) Could your Project Paper cause an impact in one (or more) of the identified town centres? – Peterhead, Fraserburgh, Inverurie, Westhill, Stonehaven, Ellon, Portlethen, Banchory, Turriff, Huntly, Banff, Macduff.	
Yes – Possible very small impact in Banchory.	No

2) If approved would your project cause an impact (either positive or negative) with regards to the footfall of any of these town centres?	
Yes	No – no impact foreseen.

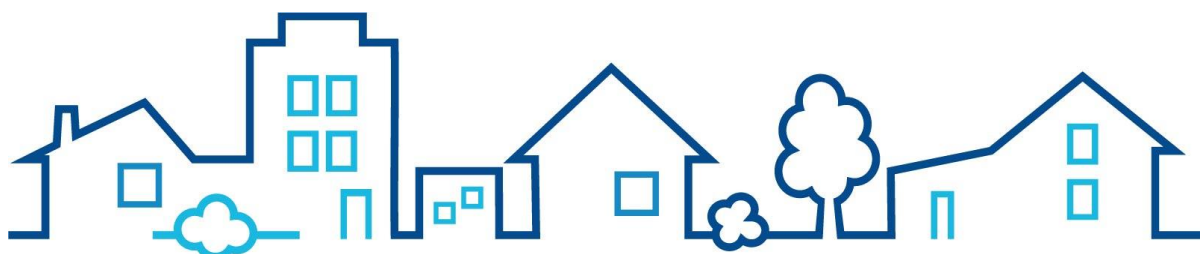




3)	
Please describe the aims of the committee paper?	To facilitate a local group in developing an enhanced leisure facility within a centrally located public park.

4) What are the positive and negative impacts?		
Impact	Describe the positive impact?	Describe the negative impact?
Please detail any potential positive and negative impact the project may have on Aberdeenshire's Key Town Centres.	Improvement of existing leisure related facility may notionally make the town centre a more frequented place by young people.	No negative impact foreseen.

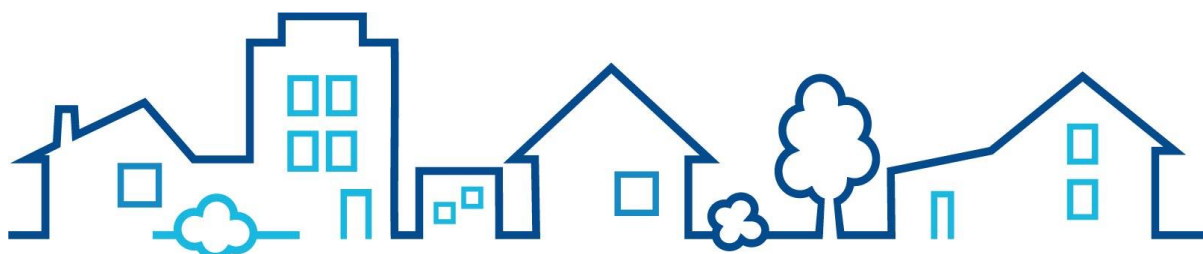
5) What mitigating steps will be taken to reduce or remove negative impacts? If none see Q6	
Mitigating Steps	Timescale
N/A	





6) Set out the justification that the activity can and should go ahead despite the negative impact.
N/A

Question 7: Sign off and Authorisation	
a) Author: I have completed the TCIA impact assessment for this policy/ activity.	Name: Ronald C Davidson Position: Estates Team Leader Date: 17.04.2018 Signature:
b) Consultation with Service Manager	Name: John Gahagan Position: Estates Manager Date:
c) Authorisation by Director or Head of Service	Name: Allan Whyte Position: Head of Service (P&FM) Date:
d) Have you consulted with your Town Centre First Ambassador?	Yes
	No
e) TCFIA author sends a copy of the finalised form to: tcfia@aberdeenshire.gov.uk	Date Sent:



APPENDIX 3

Banchory Skate Park Project

In June 2017 Banchory published a Community Action Plan (CAP). This CAP was prepared by a steering group under the auspices of Banchory Community Council (BCC). It set out to identify the most pressing issues in Banchory and how to address them.

The Key Findings of the report state that the “**provision of an improved skateboard / BMX park**” was one of the top issues which Banchory residents felt were important (see page 3). More detail is provided in discussion of the Recreation Theme (page 8):

With reference to Bellfield Park there is a need to improve facilities for children and young people. Facilities might include a modern skateboarding and BMX park.

The Table summarising main issues and potential projects identified, details the skate park under Theme 4: Recreation (see page 13).

Project: Bellfield Park Improvements.

Issue/Need: Seen as needing refurbishment, with inclusion of BMX / Skateboarding park and more facilities for teenagers.

Initial Action: Issue has begun to be addressed with CLD and BDI involved with Skateboard Group.

Short to Medium Term Action: Develop Action Plan, including for funding.

Long Term Goal: Establish programme of improvements. Deliver BMX / Skateboard Park.

The issues detailed in the CAP were identified following a thorough and inclusive consultation programme carried out throughout 2016 and into early 2017. That process is outlined in more detail below:

- designed a questionnaire and made it available to a wide sample of community groups and individuals;
- highlighted the process in the Press, on local community radio and at local presentations in an attempt to maximise the number of responses;
- analysed the responses to the questionnaire;
- organised three Community Open Days in Banchory Town Hall and Hill of Banchory Primary School;
- visited the local primary schools to seek the views of the children on their priorities for Banchory;
- reached out again to senior citizens and youth groups;

- collated and analysed all the information and drew up a thematic outline of the issues and potential projects which emerged from the questionnaire and Open Days;
- prepared a draft Plan on the basis of this analysis;
- organised further community involvement liaising with potential partners who could assist in delivering the CAP;
- prepared the Final Plan.

The Chair of Banchory Community Council provided a summary of when the skate park project was first mentioned in the Banchory CAP process and how consultation on this project was carried out.

In response to the initial questionnaire, there were a lot of comments about the lack of facilities or the inadequacy of the facilities for young people - Upper primary upwards - in Banchory. Various possible activities or facilities were suggested: the skate park was amongst these with comments about the poor state of the existing one and that it was not up to standard.

During the first round of Community Open Days, further support for better facilities – skate park, bike trail, football pitches etc. - all received support.

In October 2016 Banchory Community Council was contacted by the Skate Park Group about the dangerous state of the existing skate park and plans for improving the facility. The BCAP Steering Group then invited the Group to take a stand at the final Open day at which they received a great deal of support from those attending.

This feedback led to the skate park being included in the Banchory CAP and the Group were invited to speak at the BCAP Launch Event where they impressed the audience with their ideas and enthusiasm.

(Email: 2018/04/02)