

Dundonald Gymnastics Club SCIO Charity No. SC048271, [REDACTED] requests a review of the South Ayrshire Council decision to refuse the asset transfer of Muirhead Activity Centre and car park under Part 5 of the Community Empowerment (Scotland) Act 2015.

We request the review based on the following reasons;

1. Outline of Basis for Request to Review

We believe that the decision by South Ayrshire Council (SAC) to refuse the asset transfer of Muirhead Activity Centre (MAC) and car park under Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act) to Dundonald Gymnastics Club (DGC) on Tuesday 25 June 2019 was irrational, procedurally improper and failed to meet the legitimate expectations of Dundonald Gymnastics Club.

Under Section 82 subsection 5, *“the authority must agree to the request unless there are reasonable grounds for refusing it”*. We believe that the specific reasons given in the refusal letter do not constitute reasonable grounds as detailed below. It was our legitimate expectation that determination of the application would be based on the written information supplied during the application process and the consideration of that information within SAC’s agreed policy and framework as agreed by the Leadership Panel (LP) on 27 November 2018.

In addition to the documents submitted with the application, we have referenced in this request for review and attached as Appendices additional information which we believe is relevant to the review including information which we have requested from SAC but not yet received.

2. Reason 1

The feasibility and cost of the services elsewhere and the lack of guarantee from officers that existing users could be accommodated in this facility or any local facility.

It is unreasonable to refuse the application due to the failings of SAC. We have repeatedly stated our willingness to discuss continuity of provision of complimentary activities but would expect such groups and businesses to be prepared to make reasonable adjustments in terms of timing and costs.

As a charity our focus is on our charitable aims and within the context of our legal requirement to be financially stable cannot expect our members and users who are overwhelmingly resident in South Ayrshire to subsidise business users.

We are not aware of any detailed information in the papers considered by the Leadership Panel (LP) relating to the cost of relocation or whether this relates to council costs or businesses/groups using MAC. It is unreasonable to use this unquantifiable cost as a valid reason for refusing the application when set against the SAC savings resulting from the transfer of £73,121.83 based on 2018/19 accounts and backlog maintenance of £142,168.

(Appendix 1). It should be noted that there has been a consistent deterioration of both income and deficit over the last 3 years and there are no published SAC plans to address this.

We have contacted a number of the businesses/groups of the 14 listed on SAC website as scheduled groups and had follow up discussions with Dance Stars, Meta Fit and Jo Jingles. The Majorette group have not taken up the offer to meet. The possibility of continuing and expanding these services at MAC, should the asset transfer be successful, was discussed and we indicated our willingness to work with them. (Appendix 2). It is in our interest to accommodate any outside organisations who wish to use MAC to achieve our charitable goals.

We understand that the significant £300k SportScotland investment in the re-development of Marr College was conditional on making the sports facilities available to the local community and for SAC to maximise usage of the facility.

We are aware that SAC officers have contacted businesses/groups currently using MAC regarding alternative facilities (Appendix 3). Reasonable alternative arrangements should be offered/considered but the concept of an unspecified guarantee (same place? same times? same price?) would appear to set an unreasonably high bar.

Costs of usage at Dailly Activity Centre, operating as a charity under a full costs and maintenance lease, represent the reality of operating such a facility and associated hall hire charges are worthy of consideration. (Appendix 4).

3. Reason 2

The proposal failed to demonstrate sufficiently that there would be enhanced local services or that the local community would be served or accommodated by the proposals for other uses in the application.

Our Business Plan clearly shows that we are planning to increase the range of exercise, related services available to the local community including Keep-fit, Cheer and Dance accessible to all including, Baby & Toddler, Pre-school, Adult and Disabilities. We are committed to developing these services and other gymnastic related services.

All our gymnasts are school age, the overwhelming majority of whom train outside school hours and at weekends. It is important for the development of the charity that we maximise the usage of MAC during school time through lettings to sports and social clubs/businesses compatible with the space available. Our published proposed timetable (Appendix 5) shows potential available letting hours for non – gymnastics, managed community activity at 54 hours per week against current published opening hours for the centre of 61 hours. Whilst the nature of community usage would change there is clear capacity for its levels to remain.

Although we can demonstrate our commitment to these developments, it is unclear where in either the regulations or SAC assessment framework that such a requirement is necessary.

4. Reason 3

The lack of evidence to show that the benefits for the other parts of the community excluding the gymnastic community would be delivered and in the time periods set down in the application.

Neither the application nor business plan reference time periods for delivery.

We are a charity whose sole source of income currently derives from user fees, there is compelling evidence based on our current waiting list and the experience of another gymnastics club (Appendix 6 & 7) who have acquired their own facilities that we will be able to at least double the number of our gymnasts. The rate of growth will be constrained by a number of factors including the availability of appropriately trained coaches some of whom will inevitably be developed from among parents, gymnasts and other interested people.

As outlined in our business plan it is in our interest to maximise the usage of MAC through lettings to sports and social clubs/businesses as soon as possible to both help our charity and build a relationship with the community.

5. Reason 4

More weighting and more detailed consideration should have been applied to the local community objections, the number type and specific issues raised by the significant objectors in the local community than Dundonald Gymnastic club.

We believe this is a potentially illegal proposal which would represent an explicit commitment to increase inequality and run counter to SAC's equality commitments. It should be noted that we have substantial number of gymnasts from the Troon and immediately surrounding area who should be considered as residents (Appendix 8). It is not clear what proportion of MAC users are resident in the immediate area.

We can evidence that the petition and other media postings pre-date the publication of the DGC detailed Business Plan and should be interpreted in that context (Appendix 9).

The online petition was started well before details of the Community Asset Transfer (CAT) application by Dundonald Gymnastics Club SCIO (DGC) for Muirhead Activity Centre (MAC) were published and mis-represents the proposals outlined in the Business Plan supporting the CAT which is published on South Ayrshire Council's website.

A quick review of the first 75 or so online comments made by people identify a number of themes:

Concern at loss of council run facilities. - MAC has made substantial and increasing financial losses over the last 3 years. The premises are deteriorating with a large backlog of maintenance and repairs. There is no published SAC proposal to address these issues. If approved the CAT will guarantee a viable well managed facility, with increased opening hours, improve the state of the building and safeguard access a wide range of activities

Facilities should not be transferred to private businesses. - DGC is a Scottish Charitable Incorporated Organisation with charitable purposes regulated by the Office of the Scottish Charity Regulator. (Appendix 10)

Facilities should not be restricted to single community of interest. - DGC Business Plan clearly demonstrates a commitment to multi use and an expansion of access to the facility.

In considering the petition, SAC need to consider whether the basic premise of the petition fairly reflects the actual application made by Dundonald Gymnastics Club SCIO.

The Act makes no distinction between geographical or common interest groups and neither does SAC's Assessment Framework. In fact, SAC's report to the LP recognised in relation to Equality Impact Assessment the '...likely positive impact to the characteristics of disability and age.'

6. Reason 5

There was a lack of consideration of whether the Muirhead Activity Centre, as the second most used community facility, was the most appropriate Council facility and a failure to explore with the Applicant alternative Council venues that might offer a better alternative for the club.

Current 2019 Q1 and Q2 figures indicate that MAC is the third most used facility behind Dundonald and Coylton (Appendix 11).

DGC has been based in Dundonald since it began and naturally draws its members from the surrounding area including Troon and Muirhead although because of its success and the high quality of coaching draws gymnasts from across South Ayrshire.

Discussion with SAC on the potential for an application for transfer was made by the club in November 2017 when both Muirhead and Whitletts Activity Centres were recommended for closure in the published Budget Savings Review (Appendix 12). Whitletts along with the other SAC Activity Centres, provide the only reasonably accessible resources for the local geographical communities they serve. Muirhead is sited adjacent to extensive high-quality sports facilities associated to the recent redevelopment of Marr College. Our proposal is designed to provide a centre of excellence for the development of the sport of gymnastics

alongside the other successful sports clubs serving our community. This is the diversification of provision of high-quality sport whilst maintaining a commitment to other community-based activities.

The close proximity of 2 Primary and 1 Secondary School provide further potential for DGC to provide support for the delivery of a compulsory curriculum sport.

MAC is the best fit with regards to current members with alternative SAC facilities likely to involve substantial additional travel time and cost.

We are not aware that the Act or SAC's assessment framework requires a consideration of alternative facilities.

7. Other

We feel that the LP discussion on our application was unfairly focused on the less positive aspects of the application with information introduced that was not quantifiable or confirmed as accurate. The Community Empowerment (Scotland) Act 2015, Asset Transfer Guidance for Authorities provides the following direction in relation to the decision making process;

10.8. In reaching its decision the authority must consider the reasons for the request and the information provided in the request and in support of the request, and compare the benefits of the community transfer body's proposals with the benefits that might arise from any alternative proposal. Alternative proposals may be another asset transfer request, or another proposal made by the authority, or by any other person. If the relevant authority does not consider the property to be surplus, continuing the existing use would be treated as an alternative proposal; if the property has been identified for disposal, disposal on the open market could be an alternative.

10.9. In assessing the benefits of the request the relevant authority must consider whether agreeing to it would be likely to:

- *promote or improve*
- *economic development*
- *regeneration*
- *public health*
- *social wellbeing*
- *environmental wellbeing, or*

- *reduce inequalities of outcome which result from socio-economic disadvantage*

10.10. The authority must also make the decision in a manner which encourages equal opportunities and the observance of the equal opportunities' requirements. While some of this may come under the heading of promoting or improving "social wellbeing", it provides a focus for considering activities which may benefit particularly disadvantaged groups or promote inclusion and understanding between different groups.

10.11. When comparing the benefits of other proposals to the benefits of the asset transfer request, the non-financial benefits of the other proposals should be considered, where possible, as they are for the asset transfer request. The price offered for the transfer should also be considered alongside the non-financial benefits. In its simplest form, you should consider what outcomes could be achieved with any profit or savings that might be made, or what impact any financial loss might have, compared with the benefits offered by the community project or alternative proposals.

The applicant believes that no such assessment has been carried out and yet the refusal notice issued states that the decision was made after a thorough evaluation process against pre-determined criteria outlined in the leadership panel report of 11th June 2019. We believe that the availability of such an assessment could impact positively in the applicants favour on many of the grounds listed for refusal. We have requested a full assessment report be completed in this regard. (Appendix 13)

The contribution of our application to SAC strategies of improving the quality of life of individuals, improve well-being, counter anti-social behaviour, promote social inclusion, or the ability of gymnastics and sport in general to raise self-esteem, increase confidence and widen horizons received little if any recognition or consideration.

The LP ignored the evaluation by officers of its own assessment framework which rated the application as strong or very strong on all four aspects

8. Conclusion

We believe that the process was procedurally improper: by allowing new information to be entered without being quantified or checked for accuracy, ignoring its own assessment framework and misinterpreting the Act. Additionally, the discussion was biased to reject in unfairly failing to consider the positive aspects of the application as highlighted in the DGC Business Case and SAC officers report. Because of the above, the Leadership Panel discussion and decision failed to meet the legitimate expectations of Dundonald Gymnastics Club Scottish Charitable Incorporated Organisation.

We would request that the review be conducted on the basis of written submission and would further request site visit to our existing facility at Dundonald Activity Centre and at Inverclyde National Sports Centre Gymnastics Facility. This will facilitate a greater understanding of the proposal, the sport of gymnastics and the potential of the plan to make a positive impact in the community.

Appendix 1: Muirhead Condition Survey 2019

Appendix 2: DGC Summary of User Group Meetings

Appendix 3: SAC Summary of User Group Meetings

Appendix 4: Dailly Activity Centre Hall Hire

Appendix 5: DGC Proposed Sample Timetable for MAC

Appendix 6: West Dumbartonshire Gymnastics Club (WDGC) Facility Info

Appendix 7: West Dumbartonshire Gymnastics Club (WDGC) Usage & Testimony

Appendix 8: DGC Demographic

Appendix 9: Change.org Petition – Save Muirhead Activity Centre

Appendix 10: DGC SCIO Certification

Appendix 11: MAC 2019 Q1 & Q2 Usage Figures

Appendix 12: SAC Budget Savings Review 2017

Appendix 13: List of information requested from SAC

Since notification of refusal, the applicant has made a number of requests to SAC for information relating to usage of MAC to provide proper context of usage and potential displacement. Full responses to these questions have not been received at time of submission of appeal but the associated information is requested to be considered on receipt.

Appendix 13

Item 1 - List of 30 MAC user groups referenced during Leadership Panel Meeting on June 11th 2019.

During the hearing Councillor Saxton asserted the presence of 30 user groups at MAC, refuting the work carried out by SAC in identifying 14 user groups. The Change.org Petition – Save Muirhead Activity Centre (Appendix 8) refers to '12 or so other clubs' which is in line with correspondence received by attributable groups during the consultation process.

Item 2 - 2014 Review of MAC when previously considered for closure. Applicant understands that at this time, centre opening hours and staffing levels were reduced to address losses and ensure centre remained open. It is requested that response includes

- Reasons for consideration of closure
- All financial and usage information leading to decision
- Recommendations made regarding continued usage

Item 3 - SAC Current plans to address to losses of £73,121.83 per annum based on 2018/19 accounts and backlog maintenance of £142,168.

Item 4 - Details of any current SAC Lets who have a guarantee of continued access to their let at same time, same place, same price.

Item 5 - MAC 2019 Q1 and Q2 financial income and expenditure

Item 6 - MAC 2019 Q1 and Q2 usage, detailing all user group participation levels and associated income generated.

Item 7 - Demographic of MAC current usage.

Item 8 - List of 'events' run in MAC including number of recorded birthday parties 2018/2019.

Item 9 – Minutes from Leadership Panel Meeting – Date June 11th 2019

Item 10 – SAC Assessment of Status Quo as per Section 10.8 Community Empowerment (Scotland) Act 2015.