

Place Directorate

# Midlothian

**Midlothian Council**

Midlothian House  
Buccleuch Street  
Dalkeith  
EH22 1DN

Kevin Anderson  
Executive Director - Place

5 February 2024

Trish Sime  
Bonnyrigg Rose Community Football Club (SCIO)  
Poltonhall Recreation Ground  
Polton Ave Road  
Bonnyrigg  
Midlothian  
EH19 2NU

## **ASSET TRANSFER UNDER THE COMMUNITY EMPOWERMENT ACT (SCOTLAND) ACT 2015 – DECISION NOTICE**

This Decision Notice relates to the asset transfer request made by Bonnyrigg Rose Community Football Club SCIO (SC050923) (BRCFC) on 28 September 2022 in relation to Poltonhall Sports Complex, including the astro pitches, grass pitches, pavilion, caretaker flat and car park as shown delineated red and coloured pink on the Plan attached (the Property).

At their meeting on 30 January 2024, Midlothian Council's Community Asset Transfer Committee decided to agree to the request for ownership of the Property, subject to certain terms and conditions.

The reasons for this decision are as follows:

- The assessment scored 52 out of a possible 70 point score (74%) which demonstrates that the proposal is likely to achieve best value and comply with the Disposal of Land by Local Authorities (Scotland) Regulations 2010
- The Council's value for alternative use/redevelopment of the site was minimal.
- The proposed and other community benefits scored highly as well as the level of community benefits provided.
- The application demonstrated how the project contributes to the delivery of improved outcomes for Scotland.
- The club has effective partnerships with others in the community.

- The asset transfer would ensure that the Council's liabilities for maintenance, repair, renewal and insurance would pass to BRCFC
- BRCFC has established a sinking fund to protect the financial costs required to replace the pitches when they reach end of life.
- The transfer of halls and pavilions is part of the Council's financial strategy.

The attached document specifies the terms and conditions subject to which we would be prepared to transfer ownership of the asset to you. If you wish to proceed, you must submit an offer to us by 5 July 2024 (6 months). The offer must reflect the terms and conditions attached and may include other such reasonable terms and conditions as are necessary or expedient to secure the transfer within a reasonable time.

The offer must be prepared by a firm of solicitors and should be addressed to:

The Principal Solicitor  
Legal and Governance  
Midlothian Council  
Midlothian House  
Buccleuch Street  
Dalkeith  
EH22 1 DN

The offer also must contain the following:

1. the name of the property on which the offer is made;
2. the name of the Community Transfer Body;
3. the date of the Decision Notice;
5. confirmation of permissions in place and any that remain outstanding at the time of offer; and
6. confirmation that the specific terms and conditions under which the Decision Notice was issued are acceptable.

Following receipt of the formal offer it is expected that the asset transfer will be concluded within 6 months. If the transfer is not made within 6 months then a request for an extension should be made as soon as possible.

### **Right to review**

If you consider that the terms and conditions differ to a significant extent from those specified in your request, you may apply to the Council to review this decision.

Any application for review must be made in writing to:

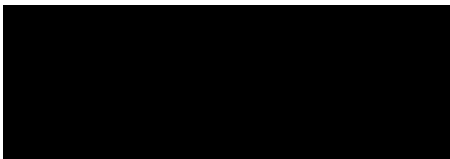
Ms Saty Kaur, Chief Officer, Corporate Solutions  
Midlothian Council  
Midlothian House  
Dalkeith  
EH22 1DN

By 4 March 2024 which is 20 working days from the date of this notice.

Guidance on making an application for review is available:

<https://www.gov.scot/policies/community-empowerment/asset-transfer/>

Yours sincerely



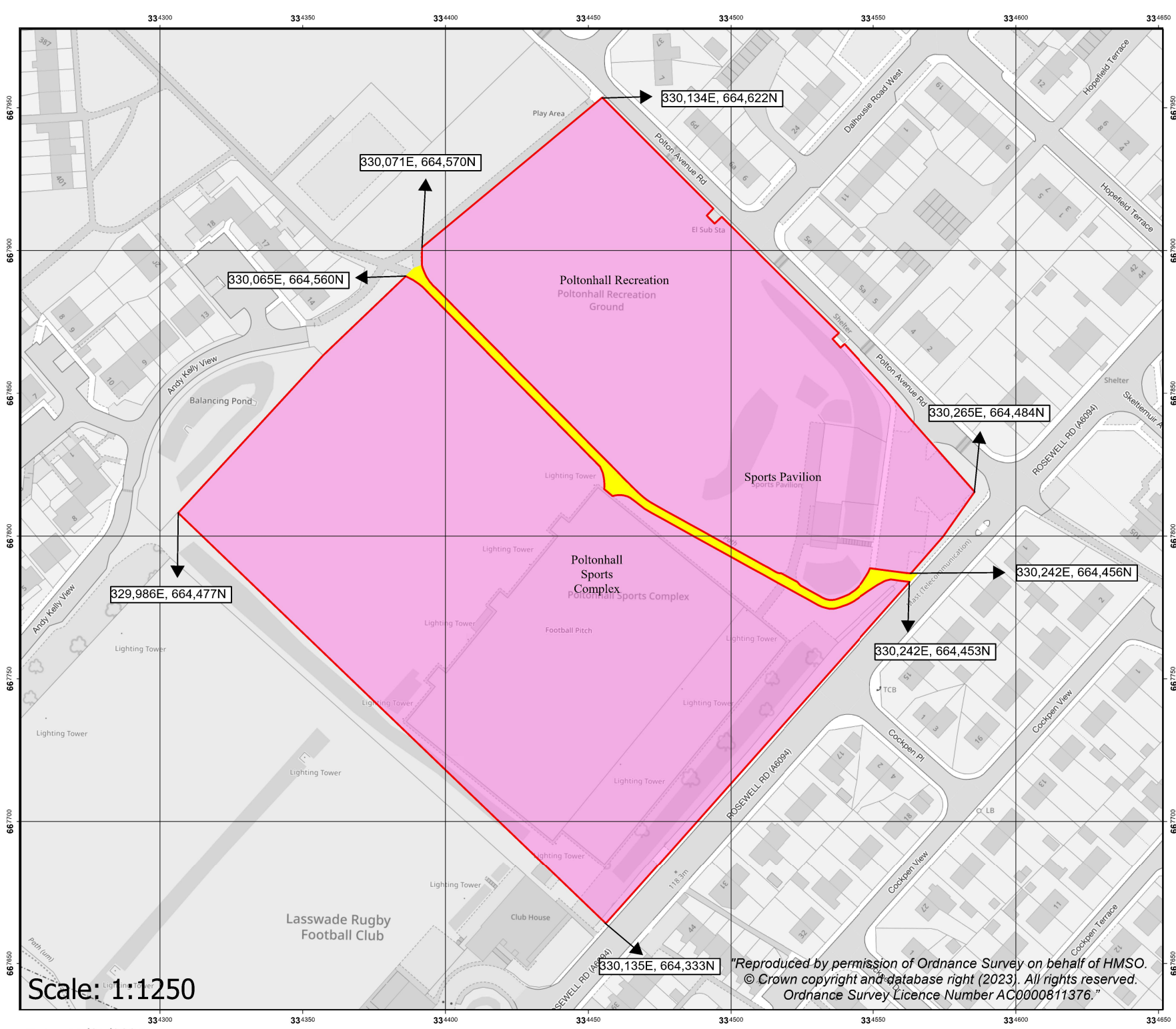
Kevin Anderson

Executive Director - Place

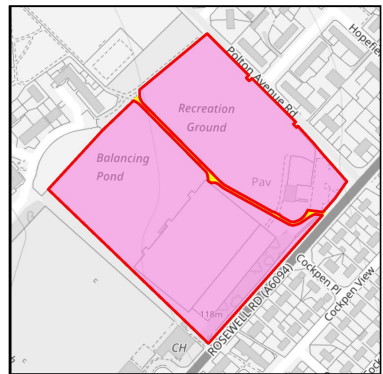
## **Terms and conditions**

1. The consideration for the transfer of the Property shall be for the nominal value of £1.00, (if asked). BRCFC shall pay the Council's legal fee of £1,000.00 (No Vat charged) in connection with the transfer in ownership;
2. The public footpath which runs through the Property onto Rosewell Road shall be excluded from the transfer and remain in the ownership of the Council who will continue to maintain the path and related public infrastructure and have rights of access over the Property for the purpose of maintenance, repair and replacement, as necessary;
3. For the avoidance of doubt, the caretaker flat within the Property shall be transferred in its existing state of repair and condition without further monies being expended by the Council except in relation to electrical and gas safety testing with appropriate documentation/certification being provided by the Council to BRCFC prior to transfer;
4. The use of the Property shall be restricted in all time coming to the sole purpose of a community football club as outlined in BRCFC governing documents and in accordance with the proposal contained in the CAT transfer request. Any change in use will require prior written consent from the Council which shall not be unreasonably withheld where the proposed use is consistent with the aims of the governing documents;
5. A clawback burden which provides that in the event of any sale for an alternative use e.g. commercial or residential planning permission (not including any proposed community uses), the Council would receive a 100% of the uplift in value, i.e. the difference in value between the Property as a community football club and the value with the proposed change of use as determined at the time of any sale;
6. BRCFC shall, in all time coming keep the Property (a) in good and substantial condition and repair and will, as and when necessary, reinstate and rebuild the property, all in accordance with good building practice and all applicable legislation and regulations and (b) insured with a reputable insurance provider against all normal commercial risks to the sight and reasonable satisfaction of the Council. For the avoidance of doubt, in particular BRCFC shall maintain to the reasonable satisfaction of the Council an appropriate reserve fund of money which provides for the effects of inflation based on a suitable cost index and is to be held by it to meet the cost of the long-term maintenance, improvement, alteration, or replacement of the Astro Turf Pitches;
7. In recognition that the Property is an important community asset, then in the event that BRCFC wishes to dispose of the Property either in whole or part there is reserved to the Council a right of pre-emption i.e. BRCFC must first offer the Property to the Council on the same terms as the offer which they propose to accept for the disposal;

8. Any moveable items within the property which are owned by Council shall not be included in the transfer unless the Executive Director, Place considers that it is appropriate to do so;
9. Fields in Trust (FIT) agreeing to the transfer and BRCFC paying FIT's legal costs in connection with the obtaining the necessary consent;
10. Any public electric vehicle charging infrastructure within the Property shall remain in the ownership of the Council who shall have rights of access over the Property for the purpose of maintenance, repair, and replacement, as necessary;
11. Any public electric vehicle charging points within the Property shall remain available for public use at all time; and
12. Such other reasonable terms and conditions as the Executive Director, Place may consider are necessary or expedient to secure the transfer within a reasonable time.



**RESOURCES  
PROPERTY ASSETS**



Location Plan Bonnyrigg. Scale 1:5000

**Poltonhall Sports Complex**  
 Polton Avenue Road  
 Bonnyrigg  
 EH19 2NU

This is the Title Plan referred to in the  
 Community Asset Transfer (CAT)  
 for a sale between  
 Midlothian Council and BRCFC.

 **Transfer of ownership**  
 Total Area - 40,884 SqM

 **Public Footpath**  
 (Excluded from Ownership Transfer)



*Midlothian Council  
 Place ; Resources  
 Midlothian House  
 40 Buccleuch Street  
 Dalkeith EH22 1HA  
 Tel: 0131 270 7500*

**Midlothian**

**Scale: 1:1250**

Date: 11/01/2024

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