

EAST AYRSHIRE COUNCIL**CABINET REPORT – 18 January 2023****Report by Depute Chief Executive**

SUBJECT: COMMUNITY ASSET TRANSFER HOWARD PARK

PURPOSE

1. The purpose of this report is to make two recommendations to Cabinet in terms of a proposed lease of a building and an area of green space both within the Howard Park site.

RECOMMENDATIONS

2. **Cabinet is requested to:**
 - i) **Approve a 25 year lease of the Old People’s Cabin, Howard Park to Kilmarnock Station Railway Heritage Trust on confirmation that the funds required for the renovation of the facility have been acquired;**
 - ii) **Approve Vibrant Communities to continue to facilitate communication between Kilmarnock Station Railway Heritage Trust and local residents to encourage understanding of the proposal and to ensure residents are kept updated on the progression of the project;**
 - iii) **Approve a 25 year lease of land within the former bowling green, Howard Park to Kilmarnock Tennis Club; and**
 - iv) **Otherwise, to note the contents of the report**

BACKGROUND

3. The Property and Estate Rationalisation Workstream, established as part of the Council’s Transformation Strategy 2012-17, aimed to reduce the number of operational buildings by 25%. The work undertaken by the Community Asset Transfer team contributed to the overall Property and Estate Rationalisation Workstream and the 25% target.
4. Cabinet at its meeting on 4 October 2017 approved an updated Community Asset Transfer Policy, which ensured that the CAT framework would continue to be a play a vital role in the 2017-2022 Transformation Strategy.
5. Since the inception of the Community Asset Transfer framework, there have been 63 approved asset transfers in the authority.

OLD PEOPLE’S CABIN, HOWARD PARK

6. The Old People's Cabin is a listed Victorian style building originally erected in 1897 to house the meetings of the 'worthy old veterans' in the Howard Park. The building was last used as a meeting venue for a local cycle club however over the last few years the building has deteriorated and is now listed on the "Buildings at Risk" register.

KILMARNOCK STATION RAILWAY HERITAGE TRUST

7. An application for the lease of the building was received from Kilmarnock Station Railway Heritage Trust (KSRHT) through the Community Asset Transfer framework. KSRHT vision was to turn the Old People's Cabin into a social enterprise café to increase the services within the Howard Park area and to increase employment opportunities for those affected by poor mental wellbeing. The project will also involve the establishment of two counselling rooms for those with low to moderate mental wellbeing issues.
8. Following council approval to progress with a CAT application for the facility, KSRHT circulated information on their proposals to 200 local residences with the aim to inform the community about their plans, attain support for their proposals and establish a direct line of communication with the geographical community in order that any concerns could be addressed early in the process.
9. There was minimal correspondence back to the KSRHT from the original circulation.

OPPOSITION TO CAT TRANSFER APPLICATION

10. The proposal for the Old People's Cabin did however generate 5 counter circulations which were hand delivered throughout the Kilmarnock West area including residences as far as Moorfield Estate.
11. The first three counter circulations were delivered from a resident calling for the creation of the "Friends of Howard Park". The proposed organisations aim would be to "...secure a sustainable future for the park and its buildings."
12. The first letter outlined the proposal and called on residents to raise their concerns with ward 3 elected members, the Council Leader, Depute Leader and the Chief Executive. This resulted in twelve letters of concern and one letter of support for the proposal logged directly with elected members and senior management.
13. The second circulation from Friends of Howard Park however was the start of the misinformation which has dominated the Community Asset Transfer process. The letter stated "We understand that rehabilitating prisoners is also one of the target groups." This circulation resulted in a further 46 objections to elected members and senior management.
14. Three further circulations, one from Friends of Howard Park, one from an organisation claiming to be "Howard Park Neighbourhood Watch" and one document entitled "We are being lied to" were made around the wider Kilmarnock West area. These documents added to the misinformation in the second "Friends of Howard Park" letter indicating the following:

- The facility would be used to treat those with critical addiction issues and ex-offenders.
- The facility was already fully funded and that the consultation was “just a paper exercise.”
- The decision had already been made on the outcome of the CAT application.
- That the buildings previously renovated by KSRHT in the Railway Station were “mostly vacant”.

COMMUNITY CONSULTATION

15. A core element of all CAT applications is the community consultation. Given the designation of the Howard Park as common good land however, the local authority must have regard to guidance issued by the Scottish Ministers in relation to duties imposed on it under section 104 of the Community Empowerment (Scotland) Act 2015. These duties ensure that any decision with regards to land held on the Common Good account is transparent, encourages wide representation and address the representation in a timely manner.
16. East Ayrshire Council and KSRHT worked collaboratively on a community consultation for the proposal ensuring that documentation and circulation adhered to the Scottish Government guidance. Written representations were encouraged from 6 September 2021 to 7 November 2021. Over the period 241 representations were received and held on the CAT website.
17. KSRHT worked in partnership with East Ayrshire Council to produce and circulate a response to the representations received. It was also agreed that a further meeting be held in order that any remaining concerns could be addressed. Responses are held on the CAT website.
18. A consultation meeting was held at the Kilmarnock Railway Station on the 21 April 2022 with over 50 people in attendance. The meeting was recorded with a comprehensive minute of discussions redacted and held on the CAT website.

OBJECTIONS

19. As indicated in paragraph 15, 241 written representations to the proposal were received during the consultation period. Table 1, below, groups the representation in key themes and gives a breakdown of the correspondence received.

Table 1

Percentage of Representation	Support/Object	Reason for Decision	Validity
88%	Object	The vast majority of the representation indicated that the objections were based on the belief that the introduction of mental wellbeing supports within the park would make the area a less safe place for residents and	The objections based on the idea that those with mental wellbeing issues are dangerous is a common stigma which people with mental health issues often face. According to the “Scottish Health Survey 2019”, 25% of

		families. It should be noted that 32% of these representations directly referenced false claims in the misinformation circulated.	Scots are affected by mental health issues in any given year so these supports are aimed at a significant proportion of the population.
6%	Object	6% of objections stated no basis for the objection itself only indicating that they objected to the proposal.	
6%	Support	Supportive of additional facilities and café within the park.	
<1%	Object	Would have a negative impact on local businesses.	Community Asset Transfer is based on the Community Benefit of the proposal and no consideration at this point is given to the impact on businesses. It is however noted that even within the text of some of the objections there is support for a café within the park.

20. The community consultation brought further objections as indicated in table 2.

Table 2	
Objection	Validity
Continued objections that people with mental wellbeing issues would make the park a less safe place. Requests were made for risk assessments for the services indicating that those with mental wellbeing issues were a danger to those that used the park.	As above.
The development of the Café and mental wellbeing supports will increase the amount of Anti-Social Behaviour (ASB) experienced by residents.	This objection was posed to both the Community Safety Manager and the Police Liaison Officer. Both parties indicated that an operational building within the park which was lit and monitored by CCTV cameras (as is indicated in the proposal) would serve to mitigate against ASB in the wider park.
A number of people at the meeting shared their concerns that the park can be an intimidating place and those with mental wellbeing issues attending the park could be subject to harassment and bullying behaviour.	While this objection was made on a few occasions at the meeting with reference made to the ASB within the park, a significant number of written representations indicated that the park was a safe place, enjoyed by young families and residents alike. It is noted that ASB was prevalent in the Howard Park at the beginning of 2022 with Vibrant Communities deploying the Youth Action Team in partnership with Police Scotland. The times where

the ASB was reported however was out with the proposed operational time of the facility. Visits to the park at a range of times in which the facility would be in operation, do not support the idea that individuals would be routinely subjected to bullying and harassment.

COMMUNITY BENEFIT

21. The completed project indicates that they would provide significant community benefit linking strongly with local and national policy in relation to community led regeneration and mental wellbeing strategies as noted in table 3 below.

Table 3

Source	Strategy	Action	Link
Scottish Government	Good Mental Health for All	Stigma and Discrimination	Stigma and discrimination are major barriers to full participation in society and can contribute to mental health problems themselves. The completed project will provide social contact which has been shown to be an effective strategy in changing adult views in mental illness.
Scottish Government	Good Mental Health for All	Enhance Individual Experience- Prevention and Promotion	A number similar current mental health interventions aim to achieve improvement through mobilising personal and community assets, encouraging self-help and self-management and providing a range of services to address identified need.
Scottish Government	Regeneration Strategy	Delivering success	Adopts a long-term vision for places and focuses on the safety and quality of places
Scottish Government	Regeneration Strategy	Delivering success	Makes tailored interventions to link economic opportunity and need to address worklessness and deliver sustainable quality employment.
East Ayrshire Council	East Ayrshire Community Plan	Wellbeing	All residents are given the opportunity to improve their wellbeing, to lead an active, healthy life and to make positive lifestyle choices.
East Ayrshire Council	East Ayrshire Community Plan	Wellbeing	Communities are supported to address the impact that inequalities have on the health and wellbeing of our residents.
Celebrate Kilmarnock	Kilmarnock Town Centre Action Plan	Encourage a Café Culture	Build on the town centres leisure and recreational role.

ASSESSMENT

22. Following completion of the consultation for the proposal, all documents were submitted to be assessed. The assessors noted continued objections from residents even after the in-accurate information had been addressed through the consultation process. These unresolved objections were taken into consideration during the assessment process and the panel weighed those objections against the potential project benefits, as outlined in table 3, to provide a balanced decision.

SUMMARY

23. The CAT application from KSRHT for the Old People's Cabin, Howard Park has been extremely challenging. Motivated individual(s) and/or group(s) have worked extremely hard to distribute misinformation to the residents of Kilmarnock West and surrounding localities which has caused fear and concern within residents as evidenced by the representations received and by the communication received, both written and in person, by ward 3 elected members.
24. The proposals however contribute significantly to the aims of the Community Asset Transfer framework and the applicant organisation are a well-known charity who have excellent experience with the regeneration of the Kilmarnock Railway Station.
25. Having considered the totality of the information it is recommended that cabinet approve a 25 year lease of the Old People's Cabin, Howard Park on confirmation that all funds for the renovation are confirmed.
26. Furthermore it is recommended for cabinet to agree to Vibrant Communities facilitating continued dialogue and sounding board opportunities between both the KSRHT and local residents with the aim to encourage better understanding of the project and keep the geographical community briefed in terms of progression.

FORMER BOWLING CLUB

27. Kilmarnock Tennis Club have submitted an application for an area of green space within the site which housed the former Howard Park Bowling Club (appendix 1).
28. The club propose to convert the site into two all-weather Tennis Courts and a Padel Court. Utilising smart technology the facilities will be easily bookable to any interested party, will increase the sporting infrastructure within the Town Centre and allow the club to increase its members with more available courts locally. The indicative costs of the work are, at present, £0.2m.

29. Cabinet is recommended to agree a 25 year lease of the site with Kilmarnock Tennis Club on confirmation that the funds required for the development are in place.

LEGAL IMPLICATIONS

30. The applications recommended for asset transfer have been assessed against the statutory criteria specified in the Disposal of Land by Local Authorities (Scotland) Regulations 2010 as, in order to be eligible for transfer, the proposal must contribute to one of the purposes set out at paragraph 4 (2) of the Regulations being (a) economic development or regeneration (b) health (c) social well-being or (d) environmental well-being.
31. The Solicitor to the Council will include any other conditions, which may be deemed necessary to protect the interests of the Council in respect of the lease requests.

FINANCIAL IMPLICATIONS

32. The proposed lease of the Old People's Cabin is for £700 per annum. Given the condition of the building and the significant funds for re-instatement it is proposed that there is a five year rent free period from the signing of the lease.
33. The proposed lease of the open green space is for £300 per annum. Given the development time required for the courts it is proposed that there is a three year rent free period to allow the club to develop then increase the use of the facility.

POLICY / COMMUNITY PLANNING IMPLICATIONS

34. The proposed lease agreements are in accordance with the Council's Community Asset Transfer Framework as approved by Cabinet at the meeting on 4 October 2017.
35. The proposed lease agreements contribute towards the Council's Community Planning themes of Economy and Skills, Safer Communities and Wellbeing.

EQUALITY IMPACT ASSESSMENT

36. An Equality Impact Assessment has been carried out with the indication that the paper will have a potential positive impact on access to services and, in particular, early intervention and prevention services for individuals who are experiencing mental wellbeing issues.

HUMAN RESOURCES IMPLICATIONS

37. There are no Human Resources implications arising from this report.

RISK IMPLICATIONS

38. Managing Risks in Asset Transfer, A guide (Department for Communities and Local Government, June 2008) includes common risks identified by the Quirk

Review ("Making Assets Work - The Quirk Review of community management and ownership of public assets). Cognisance has been taken in respect of each of the risks identified whilst developing our transparent application and assessment process in order to mitigate any risk to the Council.

NET ZERO IMPLICATIONS

39. There are no net zero implications arising from this report.

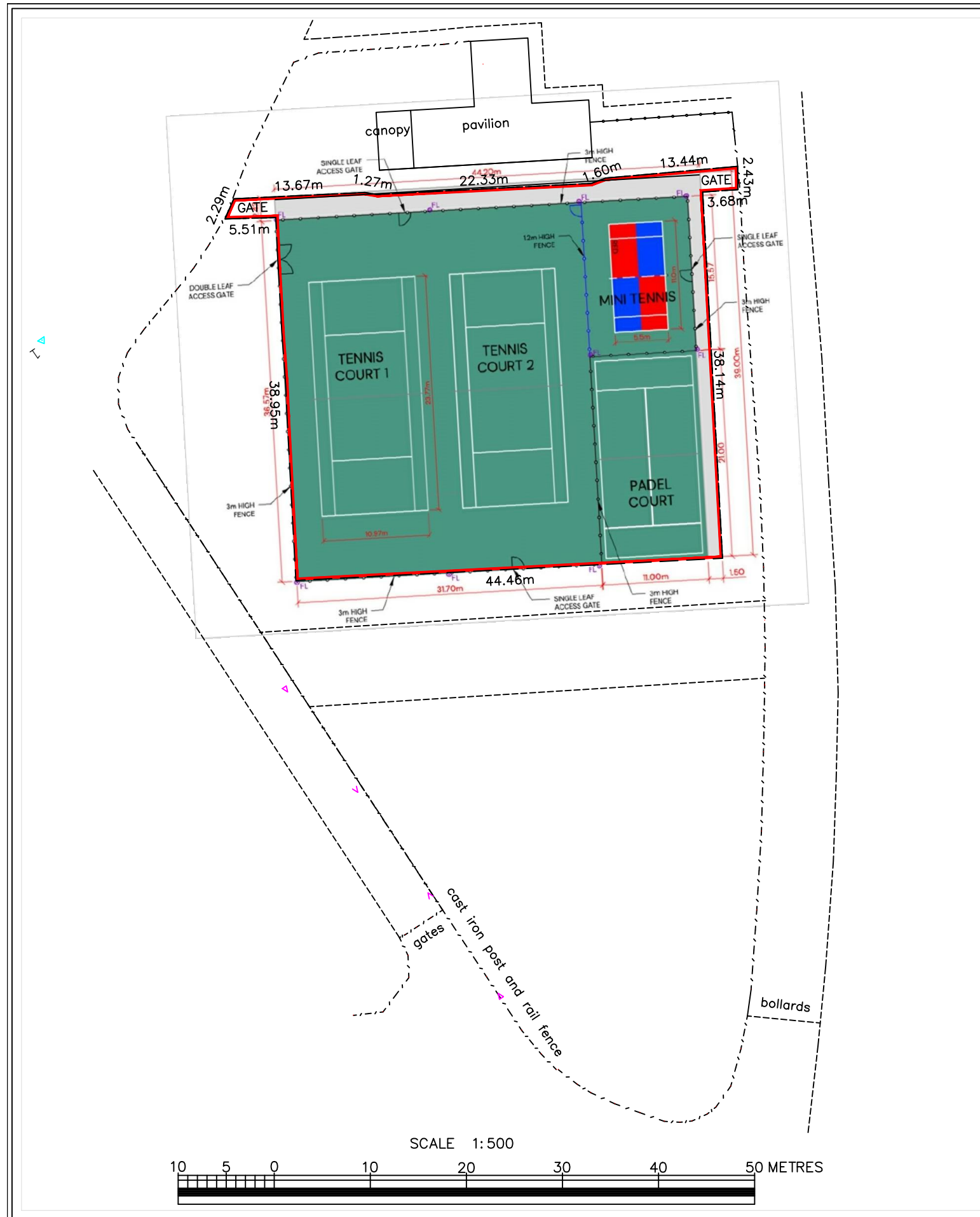
Katie Kelly
Depute Chief Executive

19 December 2022

Background Papers - Nil

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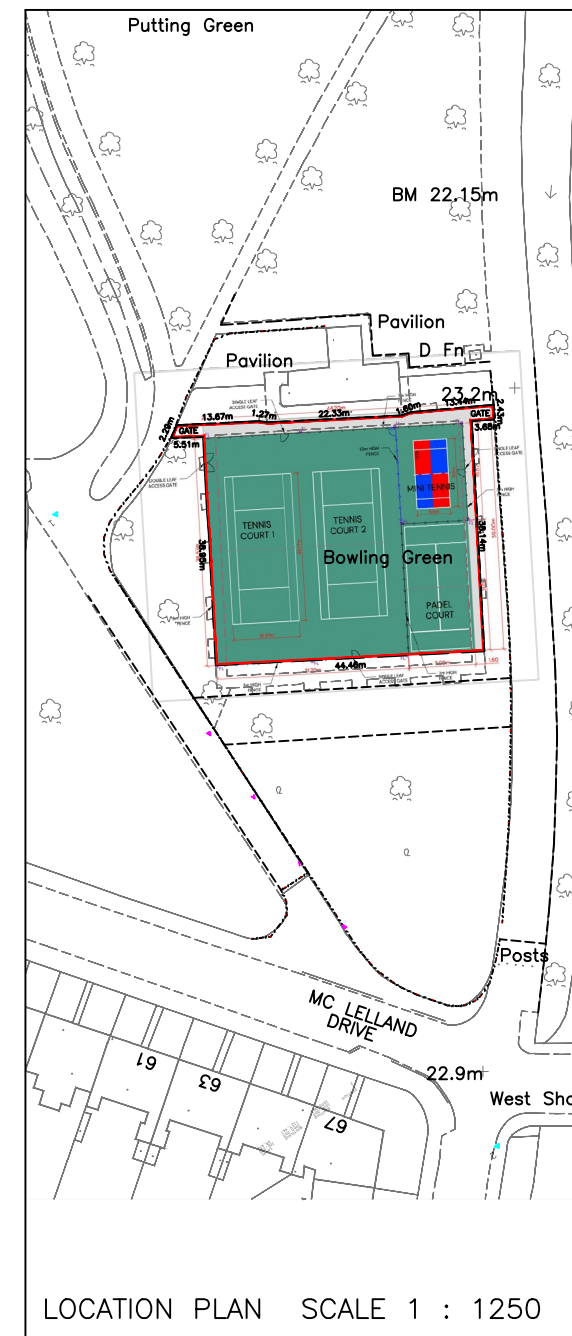
Implementation officer: Blair Millar, Head of Housing and Communities



Contents within the boundaries coloured red :
extending to 1790 square metres or thereby.

This is the plan referred to in the foregoing Lease.

Solicitor to the Council Lessee/Tenant Date



Rev.	Date	Revision	Initials

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Facilities and Property Management

Andrew Kennedy – Head of Service

TITLE	PROPERTY AT HOWARD PARK BOWLING GREEN HOWARD PARK DRIVE KILMARNOCK
PROJECT	LEASE OF GROUND AND PAVILION Property to be leased to Kilmarnock Tennis Club

Legal Title Packet No.	Legal File No.
File No. L3002788 / L300800X (CLUBHOUSE)	
Parish KILMARNOCK	
Surveyed by JL & JN	OS Sheet NS4237SE
Drafted by JL	Date MAY 2005
Checked by	Dwg.Type lease Rev.
Sheet of	Drawing No.
Scale 1:500,1:1250	13266