Agriculture and Rural Economy Directorate
Land Reform, Rural and Islands Policy

E: crtb@gov.scot

The Bank Of Scotland
The Mound
Edinburgh
EH1 1YZ

Case number: SD00004
Date 17 March 2025

Dear Sir or Madam,

NOTICE BY THE SCOTTISH MINISTERS UNDER SECTION 60 OF THE LAND REFORM (SCOTLAND) ACT 2016: DECISION ON THE APPLICATION BY NORTH QUEENSFERRY COMMUNITY TRUST FOR ALBERT COMMUNITY GROUP LIMITED, AS THIRD-PARTY PURCHASER, TO BE GRANTED CONSENT TO EXERCISE THE RIGHT TO BUY LAND AT THE ALBERT HOTEL, MAIN STREET, NORTH QUEENSFERRY, INVERKEITHING KY11 1JG

I refer to previous correspondence and write to you regarding the application by North Queensferry Community Trust to apply for Albert Community Group Limited, as third-party purchaser, to be granted consent to exercise right to buy land consisting of The Albert Hotel, Main Street, North Queensferry, Inverkeithing KY11 1JG under Part 5 of the Land Reform (Scotland) Act 2016 (the Act).

Scottish Ministers gave notice of their decision, to **refuse** consent, to North Queensferry Community Trust under section 60 of the Act on **17 March 2025 (the decision date)**.

The decision notice, outlining the reasons for this decision, can be viewed on the Register of Applications by Community Bodies to Buy Land website: https://roacbl.ros.gov.uk/viewRegister.html

Please send any queries regarding this matter to our mailbox crtb@gov.scot

Yours faithfully,

Richard Davies

On behalf of Scottish Ministers

Q Spur, Saughton House, Broomhouse Drive, Edinburgh
EH11 3XD www.gov.scot

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Q Spur, Saughton House, Broomhouse Drive, Edinburgh
EH11 3XD www.gov.scot

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Notice under section 60 of the Land Reform (Scotland) Act 2016 of Scottish Ministers' Decision

The Scottish Ministers ("Ministers") have received the application by North Queensferry Community Trust for Albert Community Group Limited, as third-party purchaser, to be granted consent to exercise the right to buy The Albert Hotel, Main Street, North Queensferry, Inverkeithing KY11 1JG in terms of Part 5 of the Land Reform (Scotland) Act 2016 ("the Act").

Having considered the information provided, Ministers have decided to **refuse consent** to Albert Community Group Limited to exercise a right to buy in relation to the land that forms the subject of the application. The decision is dated [date] ("the decision date"). This notice states the reasons for that decision.

Observations on criteria

In Ministers' view, North Queensferry Community Trust is a community body in accordance with **section 49** of the Act.

This application **does not meet** all the conditions and requirements set out in **section 56** of the Act.

Our main observations of this case are as follows:

Sections 46 to 48: Land in respect of which a community can exercise a right to buy

Sections 46 to 48 of the Act provide that a community body can apply for consent to exercise a right to buy land under Part 5 of the Act in relation to any eligible land. The eligibility of the land is considered in more detail below at page 15. However, Ministers are satisfied that the land is eligible land in terms of section 46 of the Act.

Section 49 of the Act: Community Bodies

Section 49 Having assessed the application, Ministers are content that North Queensferry Community Trust is a community body in accordance with **section 49** of the Act.

Sections 54 to 56 of the Act: Application and decision on application

Section 56(1) of the Act requires that Scottish Ministers must be satisfied that:

- the **sustainable development** conditions mentioned in section 56(2) of the Act are met, and
- the **procedural requirements** mentioned in section 56(3) of the Act have been complied with.

Sustainable Development – section 56(2)

Under section 56(2) of the Act, the sustainable development conditions are met if:

(a) the transfer of land is likely to further the achievement of sustainable development in relation to the land,

(b) the transfer of land is in the public interest,

(c) the transfer of land—

(i) is likely to result in significant benefit to the relevant community (see subsection 11) to which the application relates, and

(ii) is the only practicable, or the most practicable, way of achieving that significant benefit, and

(d) not granting consent to the transfer of land is likely to result in harm to that community.

Under section 56(4) of the Act, in determining whether an application meets the sustainable development conditions, the Scottish Ministers may take into account the extent to which, in relation to the relevant community, regard has been had to guidance issued under section 44.

Section 56(2)(a): The transfer of land is likely to further the achievement of sustainable development in relation to the land

Social sustainability

The community body state in their application that the community hub and pub would be a social focus for the village, providing the social benefits of a local meeting place, food and drink, heritage displays, and as a place for local interest groups to meet. The landowner has not provided any comments specifically in relation to the social sustainability of the proposals. Ministers' view is that a pub run for community benefit, encouraging the community to attend, and with space to accommodate local groups, would benefit the social life of the village, providing a place for local people to meet.

Economic sustainability

In terms of economic sustainability, there are two sets of arguments being made in parallel. These relate to the economic impact of the CB plans were they to go ahead, assuming the success of the business. There are also arguments relating to whether the proposals for the business operations are economically viable in themselves, whether the hotel/restaurant/bar would be financially sustainable and therefore able to deliver any of the benefits laid out by the CB.

Under the first category, the CB notes that restoration works would boost local employment during and after the works were carried out on the building. Under the proposals the profits from the business would be passed back into the community. In their application the CB state that profits from the business would be "ploughed back into the community".

The owner did not comment directly in response to these arguments; however, we note that both of these outcomes are dependent on the viability of the proposals, which the owner has questioned.

As to the economic viability of the proposals, the CB states in their application that the third-party purchaser, the Albert Community Group Limited, has created a financial model showing that the pub and restaurant business is sustainable. The financial model assumptions are at Appendix 11.2 of the business plan submitted by the CB. The accuracy of the model is dependent on the business attracting the occupancy rate and number of pub and restaurant customers that are predicted. The CB states that research confirms that there is sufficient local demand and tourist activity to make the business sustainable, however it is not clear what research is being referred to. The CB believes that local demand for a pub and restaurant is demonstrated by objections to the owner's planning applications and votes cast in the ballot, which was undertaken as part of this application, i.e. those in support of the community body's proposal. They cite the other two hospitality businesses in the village as being in support of the proposal.

The owner has pointed out that the CB's proposal is to create a community hub and pub and questions the need for the CB to acquire the entire building to achieve this aim. The owner notes they have now offered the long-term lease of the basement and terrace to allow the CB to run a community pub. As a result of the timing of this offer, Ministers have no means to judge whether the CB is amenable to it. We note the CB objected to the planning application by the owner to reconfigure the building with the basement and terrace as a bar area, on the basis they thought this plan was "impossible to be achieved in conformity with Building Control regulations or sound planning principles". Ministers would of course encourage the two parties to negotiate a solution that would be acceptable to them both.

In their comments the owner states their belief that the proposals of the CB are not viable, and that the closure of other similar businesses in North Queensferry since the Albert Hotel closed shows a lack of demand among local people to support such a business. Further, they state that "…in the view of the trustees, one of whom has over 40 years' experience in running dozens of hotels, their proposal is uneconomic and unlikely to be sustainable". The owner did however, in their comments on Appendix five, state that "…properly run there is an opportunity to create a valuable and sustainable facility for the benefit of the community and tourists alike".

In response to these comments, the CB stated their view that customers were "discouraged by poor management and neglect of the building". The CB believes a hospitality business can succeed in the area "if such a business is well run".

Both parties appear to agree that a hotel / pub / restaurant business in North Queensferry could be viable, but that its success would depend on how it was run. The CB believes that it can only be a success if run as a community pub and hub, whereas the owner thinks it needs to operate on a commercial basis, drawing on their background and experience in the hospitality industry to succeed. The CB also has a goal to restore the hotel to its original layout, which cannot be achieved according to

the owner's plans which involve the bar area being situated on the basement floor, rather than the ground floor as was the original layout of the hotel.

No clear evidence has been provided by either party to show whether there is enough customer demand for the business to succeed (for example in the form of market research).

Ministers' view is that this cannot be known definitively, but it is reasonable to assume that there is demand for a pub/restaurant based on the community support demonstrated in the ballot, the proximity of tourist attractions, and consequent likelihood of locals and tourists making use of such a facility, particularly given there is no direct competitor in the village. The same argument would apply to either type of business, commercial or community focussed. In Ministers' view it would not be possible to judge whether consumers would favour a community or commercial type of business without conducting extensive research.

In further reference to the viability of the CB plan, the owner commented on what they saw as deficiencies in the business plan; that there would be insufficient staff for the number of opening hours, making the business uncommercial, that running the restaurant and bar with two staff left no provision for time to prep or clean up, and that the pay for the key role of cook/waiter/greeter is low compared to that paid for similar roles in a similar business nearby. The owner claims these issues demonstrate that the business cannot achieve the income assumed by the business plan.

The owner also comments that a Hilton hotel just outside the village sells rooms out of season at £60 per night, compared to the CB plan to sell the rooms at £80 per night. They claim that the assumptions on income made by the CB are unsupported because of this, making the plans not viable. The owner notes that there is no clear information on the source of funding for fit out and repair works.

Ministers' view is that there is a shortage of staff available in the hospitality sector, as referenced in the Scottish Licensed Trade Association (SLTA) report of January 2024, and in comments by the SLTA managing director in June 2024, that there is a chronic shortage of staff in the licensed trade, and "Recruiting staff is consistently one of the top three challenges highlighted by those operating in the hospitality sector". Therefore, it could be challenging to attract and retain staff for the proposed business. The small number of staff envisaged by the business plan may make it very difficult to work a rota system and to cover the various tasks required, including hotel check in and other hotel tasks. Ministers note that no provision for paid annual leave has been outlined in the staffing plan.

Ministers assume that when the owner states the 'cook/waiter/greeter' role attracts a salary of £31,000 per annum, they mean by this the manager role. Ministers have no means to check the accuracy of the salary the owner quotes for a similar role at a nearby business. Searches on recruitment websites for bar and restaurant manager vacancies in Edinburgh and Fife in November 2024 reveal a range of salaries on offer, some higher and some lower than £31,000. Ministers acknowledge that since the responsibilities of this role would include hotel management, some applicants may view the salary as uncompetitive.

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The owner's assertion that rooms are available out of season at the nearby Hilton hotel for £60 per night is not supported by internet searches conducted in November 2024, which suggest that the rates proposed in the business plan are competitive.

The owner notes there is no information on the means of funding the repairs to the building in the business plan. The business plan was redacted by officials before sharing with the owner, per s55(9) of the Act, hence the lack of such information in the redacted version the owner has commented on. Ministers are satisfied that the CB has given due consideration to funding options for the renovations they intend.

In considering whether the transfer is likely to further the achievement of sustainable development, consideration must be given to the question of whether the business is financially viable, and therefore able to deliver the sustainable development proposed by the applicant.

Ministers' view, based on the information provided in the business plan, is that, on balance, the CB proposals are not likely to be economically viable.

Ministers acknowledge that the owner's plans may also have similar results to the proposals of the CB, and that the owner is critical of the CB business plans. In their turn, the CB state they have no confidence that the owners' plans will preserve the hotel's heritage or benefit the community.

Given that the test is whether the transfer would further sustainable development, rather than whether the owner's or CB's proposals for the land are stronger, Ministers must take into account the CB's proposals on their own merits. These plans would, if successful, bring a social hub for the community, economic benefits from a hospitality business itself and secondary benefits from increased trade in the village. In Ministers' view, however, insufficient evidence that the plans are economically viable has been provided and so these positive developments would be unlikely to be achieved.

Environmental sustainability

There are no arguments made by either party in respect of environmental sustainability. Ministers' view is that the transfer would have no impact on environmental sustainability in the community.

Summary on furthering the achievement of sustainable development

Ministers' view is that the transfer of the land to the community body would be likely to contribute to social cohesion in the village by providing a location where locals can meet informally and interest groups can gather, but that since the plans to bring this about do not provide sufficient evidence of financial viability, such development would not be sustainable.

Ministers are **not satisfied** that the application complies with the requirements of section 56(2)(a) of the Act for the reasons noted above. This requirement has therefore **not been** met.

Section 56(2)(b): The transfer of land is in the public interest

The CB argues that they would preserve and grow a sustainable community by providing a place for local people to meet for drinks and food, and for clubs to hold meetings and gatherings. They also believe the presence of a community pub and restaurant would attract tourists and other visitors to the area. Having these improved facilities would in turn bring economic benefits, with more visitors staying longer and spending more. In taking ownership of the hotel building and restoring the building the CB would preserve part of the cultural heritage of North Queensferry and create a community-owned business in the village which would increase a sense of community spirit. The profits from the business would be used for the benefit of the community.

The owner, in their comments, does not directly address the CB's specific arguments that the transfer is in the public interest, rather the owner asserts that in their view the CB's proposal is uneconomic and unlikely to be sustainable. The owner argues that the better way to operate a hospitality business in the village would be that the trustees, who have many years' experience in running hotels, operate the business on commercial imperatives to be successful. They state that they are "currently engaged in" returning the property to use as a hotel. The owner contends that they are giving careful consideration to their plans and would redevelop the hotel with a new bar and terrace area.

In their response to the CB's business plan the owner has alluded to the fact that the application has created uncertainty in their attempts to let the building as a hotel and bar restaurant. Ministers acknowledge that some impact of this kind is inevitable but that there is no reason to think the impact any more severe than is reasonable to expect in order to give effect to the will of Parliament as expressed in the legislation.

In response to the owner's comments, the CB acknowledges that their aims and those of the owner differ, and that the CB and ACG wish to operate the building as a community hub and pub which would contribute to sustaining a vibrant community. The CB draws attention to the different business models of community-owned businesses and commercial enterprises. The CB plans to reinstate the hotel to its historic arrangement, and states it has a viable business plan to do this, while arguing that the owner's plans to create a bar in the basement level would not be viable. They state that the 'reconfiguration of the basement was impossible to be achieved in conformity with building control regulations".

One contiguous owner, Gregor McAllister, commented on the application.

He states that he would like the hotel to be used as a building again and not left to further decline. He supports the property being reopened as a hotel and public bar. Failing that, he would support it being turned into a residential property.

He states as follows. “To summarise, we are supportive of the plans to return the Albert Hotel to its former use but equally would be keen to see it renovated given the state of how it looks and the chances of it improving any time soon without intervention is highly unlikely.”

Ministers acknowledge that the plans of the owner and the CB differ, and that each has questioned the viability of the other’s proposals. Ministers have concluded that the CB business plan does not provide sufficient evidence that it is likely to be economically viable (see page 2). Therefore, the transfer would not be in the public interest.

In terms of the layout of the building, the most recent planning application by the owner, which is referred to by the CB, has been withdrawn and is no longer available to view on Fife council planning website.

The CB has nominated a third-party purchaser to purchase this land, should the application be approved. According to the application the third-party purchaser is Albert Community Group Limited (ACG), a private company limited by guarantee (CLBG). The CB supplied the Articles of Association of ACG as a supporting document with their application. The CB states that the third-party purchaser’s relationship to the CB is that ACG was “established to own and run the land, in cooperation with the CB”. The CB states in Appendix three of the application that “The relationship between the community body and ACG will be set out in a Memorandum of Agreement between them.” Ministers note that this is expressed in the future tense and that at the time of the application there was no formal legal agreement between the two parties. Any memorandum that is agreed might not be legally binding, and even if binding would be open to the parties to vary it by mutual agreement. While it is acknowledged that the intent seems to be to ensure ACG acts with a purpose of delivering community benefit, the lack of a legally binding agreement means Ministers cannot judge whether the third-party, when taking ownership of the land, will be answerable to the community body that has made the application, or to the community defined in the application. Also in Appendix three, the CB explains that once re-opened “…the ongoing management and operation of the hotel will be achieved through the appointment by ACG of a manager or tenant to run the business in accordance with the Community Objectives and Operating Requirements set out in the Memorandum”. Ministers note that since the Memorandum is yet to be written it is unknown what, specifically, the Community Objectives and Operating Requirements referred to will be. It is also noted that whereas the application states that the ACG was set up to own and run the land in cooperation with NQCT, there is no mention of NQCT involvement in this significant appointment i.e. that of the manager or tenant who will ultimately operate the business.

Being unable to see evidence of ongoing legally enforceable connection to the applicant community body or of an acceptable degree of community control (i.e. by the defined community which has demonstrated support for this application through the ballot), Ministers have concerns about this aspect of the application. Since allowing a transfer would ultimately leave the asset in the ownership of and under the control of the third-party purchaser, and the formal and legal connection of this entity to the community it is proposed to deliver benefit to is not made explicit, Ministers’ view is that in this respect the transfer of the land is not in the public interest.

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Ministers' view is that the CB would, if their proposals were successful, create a valuable community resource in the form of an indoor space for local people to meet for drinks and food and for clubs to hold meetings and gatherings. The presence of a community pub and restaurant could attract visitors to the area. A community-owned business in the village would increase a sense of community spirit and the profits would be used for the benefit of the community.

Ministers also observe that the owner's stated objective is to return the building to its use as a hotel, to "…redevelop the hotel to its former use including a new bar and terrace area". This being the case, the owner's plans would also achieve some of the aspects of development cited by the CB: a location for locals to gather (the bar and terrace), a boost to the local economy through bringing more visitors to the area, (although not keeping profits in the community). There is, however, a significant difference between the owner's and CB's approach, in that the CB would restore the hotel layout whereas the owner would develop the building with the bar on the basement floor and create a new terrace. The CB's assertion that the proposal to reconfigure the basement is impossible to achieve in conformity with building regulations is also noted (although we are unable to verify this).

Section 56(10)(a): In determining for the purposes of subsection (2)(b) whether a transfer of land or tenant's interest is in the public interest, the Scottish Ministers must take into account, in particular, any information given under section 55(2)(a). Section 55(2)(a) states that: An invitation given under subsection (1)(a)(i) or (ii) must also invite the owner or, as the case may be, the tenant to give the Scottish Ministers information about the owner's or tenant's views on the likely impact on the owner or tenant of the proposals for the land or tenant's interest, including on the current use of the land or tenant's interest (and any intended use)

In determining whether the transfer of land is in the public interest, Ministers have considered whether any information supplied by the owner relates to section 55(2)(a). The owner did not comment directly in response to the invitation to give their views on the impact of the proposals on them, and none of the comments that they made relate to this subject.

Section 56(10)(b): In determining for the purposes of subsection (2)(b) whether a transfer of land or tenant's interest is in the public interest, the Scottish Ministers must consider the likely effect of granting (or not granting) consent to the transfer of land or tenant's interest on land use in Scotland.

Ministers have considered the likely effect of granting (or not granting) consent to the transfer of land on land use in Scotland. Ministers have concluded that such a transfer (the first under Part 5 involving a third party purchaser) is likely to have an impact on land use in Scotland through leading by example. The granting of this application could encourage other communities in Scotland to consider whether there is land in their

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area which, if transferred to community ownership, could bring significant benefits to the community.

Summary of public interest

In considering whether the transfer of the land would be in the public interest, Ministers have taken into account: the information submitted within the application, the landowner's views including the landowner's views on the likely impact of the proposals on them and their use of the land, the community body's response to the landowner, the views of the third-party purchaser, the views of the contiguous landowner, and the likely effect of granting (or not granting) consent to the transfer of the land on land use in Scotland.

Taking these considerations into account, Ministers are not satisfied that the transfer of the land is in the public interest.

Ministers are **not satisfied** that the application complies with the requirements of section 56(2)(b) of the Act for the reasons noted above. This requirement has therefore **not been** met.

Section 56(2)(c)(i): The transfer of land is likely to result in significant benefit to the relevant community to which the application relates

Ministers have considered the likely effect of granting consent to transfer the land on the lives of the persons comprising that community, in relation to economic development, regeneration, public health, social wellbeing and environmental wellbeing.

Economic development

The CB argues that the transfer of the land would create economic benefits for the community through increasing local employment and through the business making profits which are then put back into the community. They also assert that restoration works would boost local employment during and after the works were carried out on the building. The CB states that the proposed new business will lead to increased tourism, thus bringing economic benefits to the community.

The owners state that "the Trustees have unbalanced (sic) decided that properly run there is an opportunity to create a valuable and sustainable facility for the benefit of the community and tourists alike". The owners believe the CB proposals are not likely to be sustainable.

The CB responds to the suggestion their plans are uneconomic by suggesting that the reason the owner takes this view is that the hotel has been poorly managed in the past.

While the reopening of the hotel in either guise could, if the business was successful, result in significant economic benefit to the community due to the increase in both number of visitors and length of stay, the CB business plan provides insufficient

evidence that their proposals are economically viable. Ministers' view is that the transfer of the land is not likely to result in this significant benefit.

Regeneration

The CB's stated plan is to restore the hotel building to its original internal layout, and the CB asserts that the restoration of the hotel building, an important heritage asset, will make North Queensferry a better place to live. They argue that their proposals would facilitate the achievement of local plans, citing Fife Council Local Development Plan which states that "More investment will be investigated during the life of this Plan to improve the built heritage at North Queensferry".

The owner makes no response to this in their comments.

Ministers note that the owners also intend to restore the hotel building, although not with the same layout as the CB has planned. The owner's development of the building would result in a new layout, with the bar on the basement floor.

Ministers' view is that, while the restoration of the hotel building would improve the built heritage of the village, the CB business plan provides insufficient evidence that their proposals are economically viable. Ministers' view is that the transfer of the land is not likely to result in this significant benefit.

Public Health

There are no arguments made by either party in respect of public health. Ministers' view is that the transfer would have no impact on public health in the community.

Social wellbeing

The CB states that the local community will be sustained by the presence of a social hub where individuals and groups can meet, leading to increased community spirit.

The owner makes no response to this in their comments.

While increased interaction between members of the community, as a result of the provision of a community hub and pub, would be of significant benefit to the community, the CB business plan provides insufficient evidence that their proposals are economically viable. Ministers' view is that the transfer of the land is not likely to result in this significant benefit.

Environmental wellbeing

There are no arguments made by either party in respect of environmental wellbeing. Ministers' view is that the transfer would have no impact on environmental wellbeing in the community.

Summary on significant benefit

Taking account of the above, including the economic development, regeneration, public health, social wellbeing, and environmental wellbeing considerations, Ministers are **not satisfied** that the application complies with the requirements of section 56(2)(c)(i) of the Act for the reasons noted above. This requirement has therefore **not been** met.

Section 56(2)(c)(ii): The transfer of land is the only practicable, or the most practicable, way of achieving that significant benefit

The CB states that the history of the site makes apparent that the owner is "unwilling or unable to restore and reopen the land to operate as a hotel", and that negotiations between the owner and the CB to arrange a sale have reached an impasse, and therefore a transfer is the only means of achieving the significant benefits referred to in the previous section.

The owners have not directly responded to the CB arguments concerning significant benefits or the question of whether the transfer is the only or most practical way of achieving these. However, the owner states in their comments that they are "currently engaged in returning the property to its longstanding (sic) as a hotel with amendments to the internal layout to make the hotel profitable and sustainable for the future". The owner asserts that they "are actively seeking to find an economic use for the property", and that whereas the CB wants to create a community hub, they would seek to create "a viable commercial entity".

The CB in response to this view questions what steps the owner is currently taking. The CB states that the planning applications referred to have been withdrawn, and there is currently no planning permission or building warrant to carry out any works.

The owner, in response to the CB business plan, states that they have offered the CB a rent-free lease of the basement and terrace. This has occurred very recently and Ministers have no knowledge of the CB response to this offer. We note the CB objected to the planning application by the owner to reconfigure the building with the basement and terrace as a bar area, on the basis they thought this plan was "impossible to be achieved in conformity with Building Control regulations or sound planning principles".

In Ministers' view, as laid out in the previous section, there would be benefits resulting from the transfer of the land. There also appear to be several similar benefits likely to result from the current plans of the owner. There are, however, some significant differences in the two approaches. Among the benefits the CB cites are retaining the profits of the business in the community and restoring the hotel to its original layout. Neither of these will be delivered as part of the owner's plans. The owner has stated they would operate the hotel on a commercial basis and that they would redevelop the hotel with a new bar, which suggests the building would not be restored to its original form.

Ministers acknowledge that the owner has a plan to reopen the hotel and lease it on a commercial basis and has offered a lease of the basement area and terrace to the CB. This suggestion, or something similar, may be the source of a compromise that the two parties could reach. Such a compromise could allow for a community-run pub

business to retain its profits in the community and deliver significant benefit to the community. In terms of this application and the test considered here, however, Ministers' view is that the CB proposals are unlikely to achieve the specific benefits referred to in the previous section since the proposals provide insufficient evidence of being financially viable.

Ministers conclude that there is insufficient evidence that the community body's proposal is the only way to achieve the significant benefits, or the most practicable.

Ministers are **not satisfied** that the application complies with the requirements of section 56(2)(c)(ii) of the Act for the reasons noted above. This requirement has therefore **not been** met.

Section 56(2)(d): Not granting consent to the transfer of land is likely to result in harm to that community

Ministers have considered the likely effect of not granting consent to transfer the land on the lives of the persons comprising that community in relation to economic development, regeneration, public health, social wellbeing and environmental wellbeing.

Ministers note the CB's opinion that the alternative to transfer (leading in their view to a functioning community facility) is no facility at all. They argue that owners have not 'been able to restore and re-open the Albert'. They also assert that were the hotel sold to another private owner it is unlikely to be restored and reopened.

The owner in their response disagrees and states they will redevelop the hotel to its former use, including a bar and terrace area.

The CB in response to owner's views appears to assume the redevelopment plans referred to by the owner are those for which they submitted a planning application to Fife council. The CB objected to those proposals and argued that they would not meet the requirements for a viable bar or community hub.

Ministers do not have enough information to be certain of the nature of the owner's redevelopment plans and therefore whether they are viable. The owners have consistently referred to their ongoing efforts to restore the building to its use as a hotel and bar. It seems reasonable that the owner, if committed to reopening the building as a hotel, would have submitted an alternate planning application since their plans for change of use were rejected in 2020, and a subsequent plan to restore the hotel was withdrawn by them (having received over 100 objections during public consultation).

Ministers conclude that the likely effects of not granting consent are that the building will continue in its present state.

Economic development

The CB states that the economic benefits they believe the transfer will bring (local employment and profits from the business which can be retained in the community) would not occur if the transfer does not take place. The CB argues that the loss of potential benefits would damage the community.

The owner does not directly address this argument.

Ministers' view is that having concluded that the proposed business is not economically viable, we must also conclude that the community would not miss out on economic benefits if the transfer were not granted. In this respect, not granting consent to the transfer does not constitute a harm or result in harm to the community.

Regeneration

The CB view is that if consent to the transfer were not granted an important part of the heritage of the community would be endangered. The CB asserts that without the transfer going ahead, the likely outcome is that the building condition would deteriorate further, possibly to the point of it being demolished, or that it would be redeveloped as residential property. In such case, according to the CB, the community would lose the benefits of having a community hub and pub, and the heritage of the community would be endangered.

The owner does not directly address this argument. They have repeatedly stated their intention to restore and reopen the hotel.

Since Ministers' view is that the CB plans are not viable and will not deliver their stated benefits, not granting consent cannot be said to result in harm to the community. Ministers acknowledge that not granting consent is likely to lead to the building not being preserved or restored.

Public health

There are no arguments made by either party in respect of public health. Ministers' view is that the transfer would have no impact on public health in the community.

Social wellbeing

The CB argues that without the hotel reopening, the community loses out on the social benefits of having an active hub and pub.

The owner does not directly address this argument.

Ministers' view is that having concluded that the proposed business is not economically viable, we must also conclude that the transfer would not lead to the social benefits mentioned. Ministers acknowledge that not granting consent is likely to mean that the building will continue in its present state.

There is therefore no evidence to support that, in terms of social wellbeing, not granting transfer will result in harm to the community.

Environmental wellbeing

There are no arguments made by either party in respect of environmental wellbeing. Ministers' view is that the transfer would have no impact on environmental wellbeing in the community.

Taking account of the above, including the economic development, regeneration, public health, social wellbeing, and environmental wellbeing considerations, Ministers are **not satisfied** that the application complies with the requirements of section 56(2)(d) of the Act for the reasons noted above. This requirement has therefore **not been** met.

Section 56(4) In determining whether an application meets the sustainable development conditions, the Scottish Ministers may take into account the extent to which, in relation to the relevant community, regard has been had to guidance issued under section 44

The owner has provided no evidence that they have engaged with the community, nor that they have done so considering the factors outlined in *"Guidance on engaging communities in decisions relating to land"*, so there is nothing to take into account.

Conclusion – sustainable development

In summary, Ministers are **not satisfied** that all the sustainable development conditions have been complied with, as noted above. Consequently, Ministers are **not satisfied** that this application meets the conditions in **Section 56(2)** of the Act.

Procedural Requirements – section 56(3)

Under section 56(3) of the Act, the procedural requirements for an application to buy land have been complied with if -

(a) before the period of 6 months ending with the day on which the application was made, the Part 5 community body has submitted a written request to the owner of the land to transfer the land to the community body or to the third-party purchaser and the owner has not responded or has not agreed to the request,

(b) the land to which the application relates is eligible land,

(c) the owner of the land is accurately identified,

(d) any creditor in a standard security over the land or any part of it is accurate,

(e) where the application nominates a third-party purchaser – the third-party purchaser

(i) is accurately identified in the application, and

(ii) is shown to consent to the application,

(f) the owner is not

(i) prevented from selling the land, or

(ii) subject to any enforceable personal obligation to sell the land otherwise than to the Part 5 CB or the third-party purchaser,

(g) either

(i) a significant number of the members of the relevant community to which the application relates have a connection with the land,

(ii) the land is sufficiently near to land which those members of that community have a connection, or

(iii) the land is in or sufficiently near to the area comprising that community,

(h) the relevant community have approved the proposal to exercise the right to buy, and

(i) the Part 5 community body complies with the provisions of section 49 (i.e. meets the requirements to be a Part 5 Community Body).

Section 56(3)(a): Before the period of 6 months ending with the day on which the application was made, the Part 5 community body has submitted a written request to the owner of the land to transfer the land to the community body or to the third-party purchaser and the owner has not responded or has not agreed to the request

The community body has enclosed along with its application, the written request to the owner and the owner's response. The written request was sent to the owner dated 27 August 2022 and the response from the owner was returned to the community body dated 6 December 2022. The owner responded by selecting option one, namely that they are willing to discuss the potential transfer of the land to the community body on the terms specified in Part A of the form and consider entering into negotiations to that end.

Ministers are satisfied that there is sufficient evidence in regard a written request to transfer the land being submitted to the owner, in compliance with the legislative timings. This requirement has therefore been met.

Section 56(3)(b): The land to which the application relates is eligible land

Section 46(1) of the Act defines land to be bought under this part of the Act (eligible land) as any land other than excluded land. The land is not "excluded land" in terms of **section 46(2)** of the Act. Ministers are therefore content that the land is eligible land in terms of **section 56(3)(b)** of the Act. This requirement has therefore been met.

Section 56(3)(c): The owner of the land is accurately identified in the application

A search of the Land Register was made by J and H Mitchell, the CB's solicitors, in May and August 2022 and September 2023. Land Register Title FFE36805 was enclosed with the application.

Ministers are satisfied that the owner of The Albert Hotel, Main Street, North Queensferry, Inverkeithing KY11 1JG has been correctly identified. This requirement has therefore been met.

Section 56(3)(d): Any creditor in a standard security over the land or any part of it is accurately identified in the application

A search was made by J and H Mitchell, the CB's solicitors, in May and August 2022 and September 2023. It came to light through the process of application SD00003 that the Register has not been updated to reflect the fact that Bank of Scotland plc has acquired the right of the security. The CB solicitors investigated the matter and submitted this new application with the creditor information updated appropriately. Evidence of the standard security was enclosed with the application.

Ministers are satisfied that any creditor in a standard security has been correctly identified. This requirement has therefore been met.

Section 56(3)(e): Where the application nominates a third-party purchaser, the third-party purchaser is accurately identified in the application and is shown to consent to the application

North Queensferry Community Trust have nominated Albert Community Group Limited as third-party purchaser. Albert Community Group Limited is identified in the application form as third-party purchaser and two directors of Albert Community Group Limited have signed the declaration, confirming on behalf of the third-party purchaser that they consent to the application.

Ministers are satisfied that the third-party purchaser has been correctly identified and is shown to consent to the application. This requirement has therefore been met.

Section 56(3)(f)(i): The owner is not prevented from selling the land

The landowner has not advised Scottish Ministers that they are prevented from selling the land.

Ministers are satisfied that the owner is not prevented from selling the land. This requirement has therefore been met.

Section 56(3)(f)(ii): The owner is not subject to any enforceable personal obligation (other than an obligation arising by virtue of any right suspended by regulations under section 61(3)) to sell the land otherwise than to the Part 5 community body or, as the case may be, the third-party purchaser

The landowner has not advised Scottish Ministers of any enforceable personal obligations to sell the land other than to the Part 5 community body.

Ministers are satisfied that the owner is not subject to any enforceable personal obligation. This requirement has therefore been met.

Section 56(3)(g)(i) to (iii): Scottish Ministers must be satisfied that one of the options under section 56(3)(g) (i) to (iii) regarding the community's connection to the land has been met. In this case North Queensferry Community Trust have selected the option under section 56(3)(g)(iii), that the land is in, or is sufficiently near to, the area of the community (the community being the community as defined in response to question 2.4).

North Queensferry Community Trust state in their answer to question 3A.7 of the application form that the community's connection to the land in relation to which this application relates is:

"The land is situated within the community area (as defined in the Community Body's governing document).

It is also relevant that a significant number of the members of the community feels a close connection with the land. This is clear from the result of the Part 5 Ballot. Furthermore, Fife Council has engaged in extensive consultation with the local community in order to create a North Queensferry Local Action plan. The result of this consultation has shown that the re-opening of the Albert Hotel is the highest of the priorities expressed by the members of the community.

The nature of this close connection is more fully explained and contextualised in section 7.8* below." (Note this is a reference to section 7.8 of the community body's application. This document can be viewed on the Register of Applications by Community Bodies to Buy Land)

Ministers are satisfied that (g)(iii) applies. This requirement has therefore been met.

Section 56(3)(h): The relevant community have approved the proposal to exercise the right to buy

Section 57(1) of the Act provides that a community are to be taken as having approved the right to buy if a ballot of the members of the community has been held during the period of six months which immediately preceded the date on which the application was made on the question of whether the Part 5 community body should buy the land. In the ballot, at least half the members of the community must have voted, or if fewer than half have voted then a sufficient proportion to justify the Part 5 community body buying the land have voted. The majority of those who have voted must have voted in favour of the proposition.

NQCT held a ballot on 3 May 2023, within the six months preceding the date of the application on 30 October 2023, on the question of whether they should purchase the land. 897 were eligible to vote in the ballot and 706 (79%) voted. Of those who voted, 693 (98%) voted in favour of the proposition that the Part 5 community body buy the land.

Ministers are satisfied that the proportion which voted is sufficient.

The majority of those who voted were in favour of the proposition therefore 57 (1) (c) is met.

The Right to Buy Land to Further Sustainable Development (Applications, Written Requests, Ballots and Compensation) (Scotland) Regulations 2020 states that the Part 5 community body must appoint an observer to oversee, in person, the opening and counting of the votes made on the completed ballot papers, and the recording of the result. The observer must be an individual who is independent of the Part 5 community body and sign a declaration in the form specified in schedule 4 confirming that the person oversaw, in person, the opening and counting of the votes made on the completed ballot papers and the recording of the ballot result. The "Form specified in schedule 4" is the 'Return of the Result of the Ballot' form, and the community body notified Ministers of the ballot result by sending this form to Ministers on 10 May 2023. The form is signed with a declaration from Michael Melville of Fife Council Electoral Services, confirming the above ballot results. Mr Melville is not listed as a member of the community body in the membership list submitted with the application.

Ministers are satisfied that the relevant community have approved the proposal to exercise the right to buy. This requirement has therefore been met.

Section 56(3)(i) The Part 5 community body complies with the provisions of section 49

The requirements for a Part 5 community body were assessed under Section 49 of the Act. See page 1 of this notice.

Ministers are satisfied that the community has approved the proposal. This requirement has therefore been met.

Section 56(3): Conclusion of Procedural Requirements

Ministers are satisfied that the procedural requirements have been complied with, as noted above. Consequently, Ministers are satisfied that this application meets the procedural requirements in **Section 56(3)** of the Act.

Section 56(13) of the Land Reform (Scotland) Act 2016 imposes a duty on Scottish Ministers, in making a decision under section 54 of the Act, to have regard to relevant non-Convention human rights, and the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998), as Scottish Ministers consider to be relevant, and the International Covenant on Economic, Social and Cultural Rights ("ICESCR"), subject to any amendments in force in relation to the United Kingdom for the time being and any reservations, objections or interpretative declaration by the United Kingdom for the time being in force. In advising Scottish Ministers on this application by North Queensferry Community Trust, Ministers have had regard to the ICESCR and they are satisfied that the decision does

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not affect the advancement or enjoyment of the rights enshrined in the ICESCR. Ministers have regard to the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).

Q Spur, Saughton House, Broomhouse Drive, Edinburgh
EH11 3XD www.gov.scot

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