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Land Reform, Rural and Islands Policy

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Alison MacFarlane
Ballindean Community Company Ltd
Easter Ballindean House
Inchture
Perth
PH14 9QS

Our ref /Ar faidhle: SD00005
22 October 2025

Dear Alison

NOTICE BY THE SCOTTISH MINISTERS UNDER SECTION 60 OF THE LAND REFORM (SCOTLAND) ACT 2016: DECISION ON THE APPLICATION BY BALLINDEAN COMMUNITY COMPANY LTD FOR CONSENT TO EXERCISE RIGHT TO BUY LAND AT WESTER BALLINDEAN HERITAGE ORCHARD, BALLINDEAN, PERTH, PH14 9QS

Case Number: SD00005

Notice under section 60 of the Land Reform (Scotland) Act 2016 ("the Act") is enclosed.

The Scottish Ministers have considered the application by Ballindean Community Company Ltd to apply for consent to exercise right to buy land consisting of Wester Ballindean Heritage Orchard, Ballindean, Perth, PH14 9QS**.** Scottish Ministers have decided **to grant** consent to Ballindean Community Company Ltd to exercise The Community Right to Buy Land to Further Sustainable Development in relation to the land at Wester Ballindean Heritage Orchard, Ballindean, Perth, PH14 9QS.

The enclosed decision notice sets out the reasons for the Scottish Ministers' decision. The Scottish Ministers decision date is 22 October 2025. Any appeal under section 69 of the Act should be lodged within 28 days of this date.

In accordance with section 60(1)(b) and (e) of the Act, a copy of the enclosed Notice is being sent to the landowner, Anne Marie Culbert, Tay Farm House, Meikleour, Perth, PH2 6EE and all persons who were invited to send their views on the application. In terms of section 60(1)(f) of the Act, Scottish Ministers will send a copy of the enclosed Notice to the Keeper of the Register of Applications by Communities to Buy Land to be included in that Register.

Your attention is drawn to the notes contained in the Notice which provide information about the effect of Scottish Ministers' decision and on rights of appeal against the decision.

Yours sincerely

Vicky Reynolds
On behalf of Scottish Ministers

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

The Scottish Ministers ("Ministers") have received the application by Ballindean Community Company Ltd for consent to exercise the right to buy Wester Ballindean Heritage Orchard, Ballindean, Perth, PH14 9QS in terms of Part 5 of the Land Reform (Scotland) Act 2016 ("the Act").

Having considered the information provided, Ministers have decided to **give consent** to Ballindean Community Company Ltd to exercise a right to buy in relation to the land/tenants interest that forms the subject of the application. The decision is dated 22 October 2025 ("the decision date"). This notice states the reasons for that decision.

Observations on criteria

In Ministers view, Ballindean Community Company Ltd is a community body in accordance with **section 49** of the Act and this application **meets** 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 of the Act: Land in respect of which 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 under section 56(3)(b), 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

Having assessed the application, and the community body's Articles of Association included with that application, Ministers are content that Ballindean Community Company Ltd 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.

Section 56(2) of the Act: Sustainable Development

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 has stated that they would *"*protect and enhance the environment" by allowing for the conservation of an important heritage orchard that is valuable to the cultural setting of the village." A Tree Preservation Order exists on this property and it would appear

from the pictures provided by the community body that the orchard has fallen into a state of neglect.

The community body have stated that they hope the orchard would be used as a meeting place by the residents and they will install a table and bench set within the orchard for the community to use. The orchard, which cannot currently be accessed by the public, would be open to all members of the community. Ministers consider that this would likely help reduce social isolation and increase social interaction in the community by encouraging neighbours to stop for a chat, helping to create relationships within the community. Ministers consider that having a communal outdoor space within the community, which the community is currently lacking, is likely to have positive social benefits including enhanced opportunities for social interaction, improved mental and physical well-being, stronger community cohesion, and increase engagement in local activities.

The community body have indicated that the residents of Ballindean will volunteer to do the ongoing work to the orchard once the specialists have undertaken their work, this would likely provide opportunities for those resident in the community to learn new skills and contribute to community cohesion.

Economic Sustainability

The community body has submitted a business plan for the project which has listed what they think the expenses for the first 3 years of the project would be. Ministers are unsure if they are actual figures that were given by contractors/suppliers or are rough figures calculated by the community body, as no actual estimates from suppliers were included. The figures from the business plan do appear to be conservative for the amount of work required (the community body have indicated that previously they were looking at going down the Part 3A Abandoned and Neglected CRtB route).

From the report given on the state of the existing trees in the orchard and the comments made by the owner, it would appear that quite a few of the trees are in a poor state of health and may not yield a significant quantity or quality of fruit. Ministers note that the community hope to plant 15 new fruit trees in Year 1, but as they estimate that the trees would be £20 each these would be young trees. It may take a while to bear enough fruit to supply the whole community and those companies that have expressed an interest in purchasing fruit from the orchard.

Therefore, it would be unlikely that in the initial years of ownership the orchard would be able to supply the volume of produce that local wine and cider producers would require. The funds to pay for the ongoing maintenance and work that requires to be undertaken in the first year or two would likely be generated from fruit sales to the community and the sponsoring of bird boxes. This project does not propose or require that it will generate a large income but with help from the organisations they have contacted and fundraising within the community it is likely to be sustainable in the longer term.

Environmental Sustainability

The business plan submitted by the Ballindean Community Company Ltd indicates that, if successful in their application, they would clear the orchard floor, retain and manage the existing trees where possible to prolong their life and improve tree health by seeking expert advice. This would likely be an improvement, as currently no work is being carried out by the landowner in respect of land/woodland management.

The management of the orchard floor for biodiversity, including under crops, would help to prolong the life of the orchard by preserving the biodiversity of the land which will ensure that the community and future generations are able to enjoy their environment for many more years to come.

The repair of the fences will help to stop sheep from getting into the orchard damaging the trees and eating the fruit. This will help preserve the health of the land and trees and reduce any damage caused by larger animals accessing the land.

The community body intend to carry out remedial work to the existing trees, in particular the heritage varieties of apples and pears that currently exist, this would likely ensure the survival of the heritage varieties for years to come and prevent the loss of these rare variety trees.

Ballindean Community Company Ltd state they have contacted other organisations for advice, Orchard Revival, Tayside Biodiversity Partnership, Social Juice CIC, Buglife Scotland, and Braes of the Carse Conservation Group. This demonstrates that the community body is keen to seek expert advice and learn how they can make the orchard a success, which is likely to result in the environmental sustainability of the land being met.

Ministers are **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 **been** met.

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

In determining whether the transfer of land is in the public interest, Ministers have taken into account the information supplied by the owner in relation to section 55(2)(a).

The community body states that “transferring the orchard to community ownership would align with the public interest in many ways. It promotes local food security (access to locally grown produce, increasing community resilience), environmental stewardship (promoting biodiversity, providing habitats for pollinators), community engagement and social cohesion (involvement in decision making, fostering a sense of belonging and community pride), education (workshops and training for all ages), cultural preservation (celebrating historic significance of the orchard), and public health (green space for relaxation, promoting mental and physical well-being”.

It is Ministers view that the transfer of ownership of the land to the community body will likely result in the heritage variety of fruit trees being saved and preserved for the benefit of the community and for future generations. The regeneration of the orchard and repair of the boundary fencing would likely help in prolonging the life of the orchard and help to safeguard the rare variety fruit trees as well as any new trees planted as part of the ongoing development of the land. The community body have provided a business plan which looks at the long term benefits that their proposals will bring to the land and the community, and this helps demonstrate the clear benefits that will be provided by the active maintenance and development of the site.

It is Ministers’ view that the proposals outlined by the community body would create an attractive space in the village for the local community to spend time in and would be a resource that would be of value to all members of the community and visitors to the area. The orchard would be an aesthetic improvement on the current condition of the land and would attract locals

to the area, providing and area to socialise. Ministers consider that making use of volunteers within the local community will further help to promote social cohesion, reduce social isolation and help to lead to an increased sense of pride in their community. Volunteering opportunities and hosting workshops on the land could enable members of the community to gain valuable skills in relation to the planning, planting, and ongoing maintenance of the orchard, as well as experience in community engagement and community-led conservation.

The transfer of land to the community body would bring private land, that has been neglected over a number of years, into public use and enable it to be maintained and cared for by volunteers from the community. By being in community ownership it could help to reduce social isolation by providing an area where people can meet and chat in the village. The creation and maintenance of the orchard will provide volunteers with opportunities to learn new gardening skills, improve their health by getting exercise and being outdoors and making new social contacts while doing so - all good benefits to help improve both the physical and mental health of those in the community.

The land has been recognised has having a historical significance and the proposed educational aspect of this project teaching both young and old about the history of the site would benefit the local community. The land, as it currently stands, remains unused and uncared for with no purpose and does not benefit anyone in the area. Ministers note that tree preservation orders were placed on the orchard by a member of the community body to protect the heritage variety of trees in the orchard. The community body owning the land would give it a purpose that would likely benefit the community.

It is Ministers' view that the proposals outlined by the community body would create a space in the village for the local community to spend time in and would be a resource that would be of value to the local community. There would be health benefits in eating local fresh fruit, walking and being out in the fresh air and meeting neighbours thus helping to reduce social isolation. Education opportunities by volunteering for all age groups to help to manage and care for the orchard garden, learning new skills along the way. There would likely be an aesthetic improvement on the current condition of the land by removing dead trees, treating any diseased trees and building new fences to keep out livestock that have damaged the orchard. The work carried out on the land could enhance the biodiversity of the land.

Before submitting their application the community body held a public meeting to discuss what the residents would like to do with regards to the orchard, and support was given to the suggestion of creating a community body and submitting a Part 5 application. It can also be seen, through the results of the community ballot, that there is a strong desire within the community to take forward the proposals put forward by the community body in relation to restoring and developing a community orchard. The ballot produced a 77% turnout of the community with 100% of those voting, voting in favour. The support overwhelmingly supports that the land is taken into community ownership with a view to transforming the land into a valuable community resource.

The community body have said in their application that they have tried and failed to speak with the owner of the orchard, Anne Marie Culbert. The owners response is that she and a neighbouring landowner were "unaware of any public meeting or community involvement" despite the fact that Ballindean Community Company Ltd had sent a Form of Written Request to Owner of the Land on 19 July 2024 and had also made an informal request, by letter on the community body's headed notepaper dated 12 September 2023, offering to purchase the land for £15,000. Ministers note that Ms Culbert had to move out of the family home on 7/10/23 due

to flooding, after the informal request was sent, and was still living in alternative accommodation when the Form of Written Request was sent.

The landowner has, in her response stated that “We did receive a request to buy the orchard from Alison Ramsay/McFarland through her firm of solicitors in Perth and giving us 14 days to reply to an offer to give us £15,000 for the orchard. In the letter it also referred to a Tree Preservation Order which she herself had initiated and promoted through discussions with councillors. We felt threatened by this letter which was registered and officially stamped by her firm of Perth solicitors where Alison Ramsay/McFarland is a partner.”

A copy of this letter was not included with Ms Culbert’s response, so Ministers issued an email requesting a copy of this letter. When a copy was received it was found to be the same letter from the community body included in the original application. On receipt of that letter, Ms Culbert would have become aware of the community body and their wish to purchase the land. Ministers are unsure why she found the letter threatening as it was an offer from a community body to purchase the land.

It would appear that the landowner has not engaged with the community body in their wish to purchase the orchard and she has stated in her response that she wishes to leave the land to her family.

Ministers are **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 been met

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 commented that they wished to pass on the land to their family but 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 in their response related directly 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 is likely to have an impact on land use in Scotland through leading by example. The granting of this application could encourage other communities within Scotland to consider whether there is land in their area which, if transferred to community ownership, would be likely to bring significant benefits to the community.

Ministers are **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 been met.

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

Ministers have considered the likely effect of granting consent to transfer the land interest on various aspects of the lives of the persons comprising that community.

Economic development

In relation to economic development these effects could be that the community body has an income stream through the sale of the fruit and sponsorship of bird/hedgehog boxes to pay for the ongoing costs associated with owning an orchard. This project is unlikely to provide significant financial benefits to the community but community right to buy applications are considered against a much wider range of benefits than purely economic. Taking all the criteria for section 56(2)(c)(i) into account, this application is likely to result in significant benefit in the regeneration, public health, social wellbeing and environmental wellbeing categories.

Regeneration

In relation to regeneration these effects could be-the restoration of a productive orchard through preservation of the heritage varieties and planting of new trees.. Bringing land that is not accessible to the community into community ownership could provide a community space for members of the community and future generations to benefit. The regeneration of this land could install a sense of pride in the community providing a focal point that the community can develop for years to come. Although the orchard covers only a relatively small area, its acquisition is likely to deliver substantial regeneration benefits for the community.

Public health

In relation to public health these effects could be the provision of fresh seasonal fruit for the benefit of the residents, the residents making use of the space to go for a walk, enjoy nature, the fresh air and chatting to their neighbours, all of which would likely help to improve residents mental and physical health. There is also the opportunity to become involved in the restoration of the orchard and learn new skills: it is well known that gardening and being in the fresh air can help improve mental health. The provision of a community orchard would likely result in significant benefits to the public health of the community.

Social wellbeing

In relation to social wellbeing these effects could be improving social cohesion by encouraging people to get involved in the restoration of the orchard. Having a communal place in the community to wander around in the fresh air, taking in the flora and fauna and being able to sit and perhaps have a chat with other residents is beneficial to social cohesion and wellbeing. The project could give residents in the community a sense of pride in their community asset and their role in making it a success, knowing that they would be establishing community asset to be used and enjoyed by future generations. The social aspects of the project will likely result in significant benefits to the community's social wellbeing.

Environmental wellbeing

In relation to environmental wellbeing these effects could be safeguarding heritage varieties of fruit for posterity, the group also intend to work with Bug Life to improve the biodiversity of the orchard floor. From the information provided by the community body the landowner has not undertaken any work to repair fences or damage done to the existing trees to preserve the heritage varieties of fruit that are currently in the orchard. The community body aspirations are to bring the orchard back to its former glory and to preserve the heritage variety of fruits for future generations and make it an area for all to enjoy. The environmental improvements the community body intend to make to the land will likely result in significant benefits to the community's environmental wellbeing.

Taking account of the above, including the economic development, regeneration, public health, social wellbeing, and environmental wellbeing considerations, Ministers are **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 **been** met.

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

The community wish to purchase this neglected orchard for the benefit of their community to restore and preserve the heritage species of fruit that grow there and to provide a calming space for community members to relax in and be at one with nature. There are also learning opportunities to be had by volunteering to be a part of the project. The owner has stated that Alison Ramsay (a member of the community) had made an offer to an adjacent landowner, Robbie Morgan, to buy a plot of land adjacent to the orchard, but the offer was rejected (this has not been confirmed by Mr Morgan). Buying a plot of land and planting trees would take years to establish an orchard and cost a significant amount of money, so this orchard is the most practicable way of achieving a significant benefit for the community. (The only other established orchard nearby was removed by the owner some time ago.)

Ministers are **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 **been** met.

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

The community body have stated in response to this question that "Denying the transfer of the orchard to the community could lead to a series of negative consequences that ultimately harm the community's well-being, cohesion, and sustainability. The community will miss an opportunity to build resilience, promote sustainable practices, and foster a vibrant, engaged spirit. There would be reduced food security and fewer social connections with neighbourly interactions limited. It would reinforce a feeling of impotence in the community to influence decisions affecting it. The orchard could serve as a symbol of community pride and identity and its absence would diminish the sense of belonging for the community. Not having the orchard for learning about fruit production and sustainability would result in missed opportunities for education, particularly for younger generations. There would be a reduction in knowledge sharing. There would be no communal green space resulting in less access to nature, impacting physical and mental health. The heritage trees themselves and the cultural significance of the orchard would rapidly be lost to the community. In summary, the long-term

impacts of not granting consent to the transfer could be significantly detrimental not just to the current generation but also to future community members”

It is Ministers view that denying the transfer would undermine the community’s ability to build resilience and promote sustainable practices. The orchard offers a unique opportunity for: local food production, enhancing food security; educational activities, especially for younger generations; social cohesion, through neighbourly interactions and shared stewardship; and health and wellbeing through access to nature. Without access to the orchard, these benefits would be lost, likely resulting in harm to the community’s capacity to thrive and adapt.

The orchard contains heritage trees and represents a valuable green space. If the transfer is not approved the cultural significance and biodiversity of the orchard could be lost. The community would be deprived of access to a local nature area, which is vital for both physical and mental health. Opportunities for intergenerational knowledge sharing and informal learning would disappear. These losses would not only affect the current generation but also future members of the community, making the harm long-term and deeply felt.

Ministers have considered the likely effect of not granting consent to transfer the land on various aspects of the lives of the persons comprising that community:

Economic development

The orchard presents an opportunity for local economic development through community-led food production, small-scale enterprise. Its transfer could enable the community to generate income, support local jobs, and reduce reliance on external food sources. Without this asset, the community loses a chance to build a more self-sustaining local economy and likely result in harm to the community.

Regeneration

The orchard would be a catalyst for regenerating underused land into a vibrant, productive community space. Its transfer would allow the community to restore and enhance the area, turning it into a hub of activity and pride. This regeneration would uplift the physical environment and encourage further investment in the locality. Without the transfer, the orchard risks neglect and deterioration. The community would miss the chance to transform a culturally significant space into a beacon of renewal, losing momentum for wider regeneration efforts in the area.

Public health

Access to the orchard would be likely to promote physical and mental health by providing a green space for exercise, relaxation, and connection with nature. The produce provided by the orchard could contribute to healthier diets and improved food security. Not granting consent would prevent the community from benefitting from these public health improvements, through lifestyle and environmental improvements.

Social wellbeing

The orchard could foster social wellbeing by encouraging neighbourly interaction, volunteering, and shared responsibility. It would likely strengthen community bonds and provide a space for inclusive events and intergenerational learning. Its transfer would empower the community to

shape its own future. Not granting consent to transfer the land would not offer the opportunity to realise these improvements to the community's social wellbeing.

Environmental wellbeing

A restored and maintained orchard would contribute to environmental wellbeing by preserving heritage trees, enhancing biodiversity, and promoting sustainable land use. It would serve as a living classroom for ecological education and climate awareness. Its transfer would support long-term stewardship of natural resources. If refused consent to transfer the land the community would likely be unable to protect and nurture the orchard, leading to environmental degradation and missed opportunities for climate resilience, resulting in harm to the environmental wellbeing of the community.

Taking account of the above, including the economic development, regeneration, public health, social wellbeing, and environmental wellbeing considerations, Ministers are **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 **been** met.

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

The landowner 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"*, Ministers consider that, as the landowner has not provided any evidence under Section 56(4) of the Act there is no evidence to be taken into account.

Conclusion – sustainable development

Ministers **are satisfied** that the sustainable development conditions have been complied with, as noted above. Consequently, Ministers are **satisfied** that this application meets the conditions in **Section 56(2)** of the Act.

Section 56(3) of the Act: Procedural Requirements – Under section 56(3) of the Act, the procedural requirements for an application to buy land have to be complied with

Section 56(3)(a) of the Act: 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 enclosed a copy of the official written request form to the owner with their application which was dated 19 July 2024. The request was sent by recorded delivery to the address listed for the landowner in the Title Deed. The Post Office could not obtain a signature when they tried to deliver the letter on 20 July 2024 and 22 July 2024 and the letter was returned by the Post Office marked not collected. As the letter was not collected the landowner did not submit a response to the letter.

The owner, in her response to the application, which she did receive at the address listed on Registers of Scotland, had explained that she had moved out of the house at that address, due to flooding, and was temporarily resident at a different address. As the community body have submitted the request to the landowners correct address and have provided evidence of the recorded delivery details, Ministers consider that the request meets the requirements of the Act.

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) of the Act: 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 **satisfied** that the land subject to this application is eligible land in terms of **section 56(3)(b)** of the Act. This requirement has therefore **been** met.

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

The community body has stated that there was a check of the Land Register by Alison MacFarlane on 27th October 2024 and no standard securities noted on the Title Sheet. The address of the owner was shown as Woodwell Farmhouse, Rait, Perth on the Title Sheet and a copy of the title sheet was included with the application. A check was then made in the electoral register in 2023 and again on 23rd Jan 2025 confirming the owner's current address as Tay Farm House, Meikleour, Perth PH2 6EE. The owner has confirmed in her response to the application that this is her address but that due to flooding she has been living in temporary accommodation.

Ministers are **satisfied** that the owner of Wester Ballindean Heritage Orchard, Ballindean, Perth, PH14 9QS has been correctly identified. This requirement has therefore **been** met.

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

The search of the Land Register by Alison MacFarlane on 27 October revealed no creditors in a standard security in this case. A copy of the Title Deed was submitted as evidence with the application form.

Ministers are **satisfied** that there are no creditors in a standard security over the land. This requirement has therefore **been met.**

Section 56(3)(e) of the Act: 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

Ballindean Community Company Ltd advise that there is no third party purchaser nominated therefore this requirement is not applicable.

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

The owner in their response to the application has not provided any reason or proof of why they would be 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) of the Act: 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

There are no enforceable personal obligations placed on this property. Verified by property search at Registers of Scotland.

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) of the Act: 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 Ballindean Community Company Ltd have selected the option under section 56(3)(g)(ii) - the land is sufficiently near to land with which those members of the community have a connection. Ballindean Community Company Ltd states 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 community does not currently have access to the land. The land is centrally located within the defined community area. It is located at the immediate edge of the westmost part of Ballindean village and is of cultural importance to the village. Another orchard, although not an important historic orchard, has been removed by a landowner in recent years and the land that is sought to purchase is now the only orchard with a connection to the community. It now gives an unkempt impression of the village when entering from the west. The road through the village and adjacent to the land is designated a "walking and cycling friendly road" and many local residents as well as visitors to the area regularly pass the abandoned land."

The owners views were "when approaching the hamlet of Ballindean from the west it simply appears as a thicket of natural vegetation and could not be described as obtrusive or in any way offensive. We have never received any complaints from local residents with regard to the condition or appearance of the orchard.

It is Ministers view that Ballindean Community Company Ltd **has satisfied Ministers** that the land is sufficiently near to land with which those members of the community have a connection, the land is within walking distance for all members of the community and is situated on the main road running through the community and that the criterion in **section 56(3)(g)(ii)** of the Act **has been** met.

Section 56(3)(h) of the Act: 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.

A ballot was conducted by Civica Election Services Ltd on behalf of Ballindean Community Company Ltd. They identified that there were 66 persons eligible to vote in the ballot. 51 persons responded, of which 2 votes were made by proxy, and all 51 votes were in favour of the proposal. This representation means that 77.2% of the defined community voted in favour of the community body's proposals.

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)(h)(i) of the Act: the Part 5 community body complies with the provisions of section 49.

Having assessed the application, and the community body's Constitution included with that application, Ministers are content that Ballindean Community Company Ltd is a community body in accordance with **section 49** of the Act.

Section 56(3) of the Act: 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.

Conditions imposed under section 59 of The Act, as provided in section 60(2)(c) of the Act. Ministers consider that no conditions be attached to the decision to consent to the application.

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 Ballindean Community Company Ltd, Ministers have had regard to the ICESCR and they are satisfied that the decision does 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).

International Covenant on Economic, Social and Cultural Rights

In reaching their decision under section 56 of the Act, Scottish Ministers have had regard to the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 as in force in relation to the United Kingdom for the time being.

Effect of Scottish Ministers' Decision

Any owner, creditor or other person authorised to transfer, or take any action with a view to transferring, the land that forms the subject of the application for consent is prohibited from taking such action from the date that the application appeared as pending in the Register of Applications by Community Bodies to Buy Land.

Exceptions to the prohibition can be found under regulation 8 of The Right to Buy Land to Further Sustainable Development (Eligible Land, Specified Types of Area and Restrictions on Transfers, Assignations and Dealing) (Scotland) Regulations 2020.

Any right of pre-emption, redemption or reversion otherwise exercisable over the land that forms the subject of the application and any right or interest in land conferred under Part 2 of the Act (the community right to buy) is suspended from the date that the application appeared as pending in the Register of Applications by Community Bodies to Buy Land.

The prohibition and suspension referred to end on the earliest of:

• the expiry of the period specified in section 62 of the Act (confirmation of intention to proceed with purchase and withdrawal), but only if the Part 5 community body and/or third party purchaser did not, within that period, send notice to Ministers and the owner of the land confirming its intention to proceed to buy the land;

• the day on which the owner of the land received a copy of the Ministers' acknowledgement under section 62(5) of the Act, but only if the matter acknowledged the Part 5 community body's withdrawal of its application under section 62(3)(a) or (4)(a) of the Act, the Part 5 community body's withdrawal of the confirmation under section 62(3)(b) or (4)(b) of the Act that it intends to proceed, or the nominated third party purchaser's withdrawal of the confirmation under section 62(4)(b) of the Act that it intends to proceed.

the day on which the Part 5 community body or nominated third party purchaser's confirmation of intention to proceed made under section 62(1) or (2) in relation to the land or the tenant's interest is to be treated as withdrawn under section 64(7) (completion of transfer) of the Act.

• the day on which the consideration is paid in accordance with section 64(2) or (3) provided that, on that day, the owner is able to effect the grant of good and marketable title or, as the case may be, the tenant is able to assign the tenant's interest to the Part 5 community body or nominated third party purchaser.

OR

• the day on which, following the consignment of the consideration or estimate of what the consideration might be into the Lands Tribunal under section 64(5) of the Act, one of the following events occur –

(i) the owner grants a good and marketable title to the Part 5 community body or, as the case may be, the nominated third party purchaser,
(ii) the tenant assigns the tenant's interest to the Part 5 community body or, as the case may be, the nominated third party purchaser,
(iii) the Part 5 community body or, as the case may be, the third party purchaser gives notice to the Lands Tribunal of its decision not to proceed to complete the transaction.

An owner of land/tenant may, by virtue of section 69 of the Act (appeals), appeal to the sheriff against a decision by Ministers to give consent to an application by a Part 5 community body made under section 54 of the Act.

A person who is a member of a community as defined for the purposes of section 49(9) of the Act (Part 5 community bodies) in relation to a Part 5 community body may, by virtue of section 69(5) of the Act (appeals), appeal to the sheriff against a decision by Ministers to consent to an application to exercise a right to buy abandoned, neglected or detrimental land.

An appeal under section 69 of the Act must be lodged within 28 days of the Decision Date.

The owner or tenant who has incurred loss or expense in complying with the procedural requirements of Part 5 of the Act, where consent has not been granted is, by virtue of section 67(4) of the Act (compensation), is entitled to compensation from Ministers of such amount as Ministers may determine.

Any person (other than a Part 5 community body) who has incurred loss or expense in complying with the procedural requirements of Part 5 of the Act, where consent has been granted is, by virtue of section 67(1) of the Act (compensation), entitled to compensation from the Part 5 community body.

Where an application made under section 54 nominates a third party purchaser, any person (including an owner or former owner of land, and, where an application is to buy a tenant's interest, a tenant) who has incurred loss or expense in complying with the requirements of this Part following the making of the application by the Part 5 community body, or as a result of the withdrawal by the Part 5 community body or, as the case may be, third party purchaser of its confirmation of intention to proceed under section 62(4)(b) or its failure otherwise to complete the purchase after having so confirmed its intention under that section, or as a result of the failure of the Part 5 community body or, as the case may be, third party purchaser to complete the purchase, is entitled to recover the amount of that loss or expense from the third party purchaser. Any such person who has incurred loss or expense as a result of the withdrawal by the Part 5 community body of the application under section 62(4)(a) is entitled to recover the amount of that loss or expense from the Part 5 community body.

Ministers have granted their consent to the application. Accordingly, and by virtue of section 63(4) of the Act (completion of purchase), the owner of the land is obliged to make available to the Part 5 community body such deeds and other documents as are sufficient to enable the body to proceed to complete its title to the land, and to transfer title accordingly.