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In 2014 Scotland Welcomes the
World



4 July 2014

Subject: SA.36872 (2013/CP) — Alleged aid to the Celtic Football Club

Dear Mr [REDACTED]

I am responding to Mr [REDACTED] letter of 24 March 2014 to the UK Government about allegations of aid in the sales of publicly owned land at Lennoxton and at Westthorn to Celtic plc (the Club). Thanks for your patience in waiting for our response; we were anxious to consider fully all the issues under investigation.

Having now done so, we do not consider there was any State aid; none of the transactions conferred a selective economic advantage on the Club. We derived this conclusion particularly from our assessment of Glasgow Health Board's evidence in relation to the Lennoxton transaction as published on its website, and from unpublished documents shown to us by Glasgow City Council for all other transactions.

We assessed this evidence against the general principles of State aid, the Commission's Communication on State aid elements in sales of land and buildings by public authorities and Commission Decision of 16 April 2013 on the measure SA.20112 (C 35/2006).

The vendors did not openly auction the sites in question, but took into account ex-ante valuations by independent experts in the course of their deliberations concerning the sales of land in question.

The evidence in relation to the Lennoxton transaction indicates that this was a land transaction at no less than market value. There is no evidence of any transfer at an undervalue.

In the case of transactions involving the Council the evidence shows some significant differences between the Council's ex ante valuations and the final transactions. We discussed the reasons for this with the Council. The transactions were protracted and over the intervening years, negotiations between Council surveyors and the Club's advisers led to reassessment of the basis of valuation, though the ex-ante valuations themselves were not updated. The negotiations proceeded on the basis of normal commercial negotiations resulting in price adjustments. The final terms agreed between the parties were confirmed as market value by independent ex-post valuation commissioned by the Council. These ex-post valuations are the most reliable evidence of the market value of the various parcels of land in question.

We consider that the Commission Decision of 16 April 2013 on case SA.20112 bears important similarities to the case in hand. These similarities include:

- The transaction was part of a municipal plan to redevelop the city centre.
- The sale was not done through an open bidding procedure.
- In arriving at its decision the Commission took into account Sweden's ex post valuation of the plot at the time of the sale, using the comparative method as a proxy for its market value. Similar valuation evidence is available in this case.

This decision makes clear that the most important consideration is what is the most reliable evidence of valuation at the relevant time.

The annexes to this letter describe the Lennoxtown and Westthorn transactions, plus summaries of all the other transactions raised by complainants that you have brought to our attention:

- Annex A - Sale of former Lennox Castle Hospital site
- Annex B - Sale of Westthorn Recreation Ground
- Annex C - Land transactions between Glasgow City Council and Celtic plc
- Annex D - Use of Celtic Park for Glasgow City Council functions
- Annex E - Use of discounted land to secure private finance at favourable rates

Since this case has roused strong local opinions, please give me notice before you communicate with the complainants. I would also be grateful if, for the same reason, you did not release the names of individuals, commercial organisations and legal personae involved in these transactions or this investigation.

Yours sincerely



Annex A - Sale of former Lennox Castle Hospital site

The complainants allege that Greater Glasgow Health Board ('the Board') gave unnotified State aid by selling 19.45 hectares of land at the upper site of the former Lennox Castle Hospital ('the upper site') to Celtic plc ('the Club') at below market value.

Description of the measure

In 2002, the Lennoxtown Initiative, a partnership between the Board and the local authority, began arrangements to dispose of Lennox Castle Hospital, which was surplus to National Health Service requirements. The hospital is in an area designated as 'greenbelt' in the local authority's Local Plan, which limits the type of development allowed. The lower part of the site was designated as suitable for housing. The upper site, which is the subject of the complaint, was designated for countryside uses such as agriculture, tourism and outdoor recreation.

In November 2004, the Club offered £493,000 for the upper site for use as a training facility. In January 2005, the Lennoxtown Initiative contracted property surveyors, who valued the site at £480,000.

In 2006, the site was sold to the Club for £493,000. The land was sold for a sum representing market value. There is no evidence of the land having been sold at an undervalue. The terms also included a clawback provision in the event of there being any future permission to change use of the land which might change its value; any increase in the site's value following an application for alternative uses of the site would be recouped by Scottish Ministers at a rate decreasing from 95% - 40% over 25 years after the purchase. We understand that there has been no change of use nor any proposal for such change that enhance value.

Assessment of the measure

For this measure to constitute State aid, all of the following conditions would have to be fulfilled:

- a. use of State resources
- b. a selective advantage in favour of Celtic
- c. distortion of competition
- d. trade between Member States affected

The measure involved the transfer of land from public ownership to the Club, hence there was a transfer of State resources to a single beneficiary though that was in return for payment at not less than market value. Since the Club participates in European football tournaments and is active in markets such as the transfer market for professional players, any benefit conferred upon the club would have the potential to distort competition and affect trade between Member States.

However, no economic advantage was granted to the Club. Information published by the Board¹ shows compliance with the Commission's guidelines on sales of land and

¹ <http://www.nhsggc.org.uk/content/default.asp?page=s81>

buildings by public authorities. Specifically, the Board commissioned an independent valuation and followed advice from persons of good repute with appropriate qualifications and competence to maximise their return. The Club's financial situation was therefore not improved and the measure did not constitute State aid.

Annex B - Sale of Westthorn Recreation Ground

The complainants allege that Glasgow City Council ('the Council') gave unnotified State aid to Celtic plc ('the Club') through the sale of the former Westthorn Recreation Ground ('the site') at below its market value.

Description of the measure

In 2000 the Council leased this 5.2 hectare site to the Club on a 5 year term for £26,000 per annum. As a condition of the lease, the Club were obliged to acquire the site from the Council at its market value for residential development at the end of the lease.

In October 2004, as part of the negotiations with the Council about the sale of the site, the Club instructed URS Corporation Ltd ('URS'), a geotechnical services firm, to advise on the cost of preparing the land for residential use ('abnormals'). URS estimated the cost of the abnormals at £6,000,000. This was based on their evidence that parts of the site may be contaminated with chemicals, there were two mine entrances on the land and the land was underlain with abandoned mine works. The contamination would require removal of soil and capping. The mine entrances and workings would require 'grouting'; pumping material into the voids under the site.

In November 2004, the Council engaged the District Valuation Service ('DVS'), a UK Government agency, to provide an independent valuation of the site. In January 2005, the DVS advised the Council that the site could accommodate at least 216 residential units (based on the density of housing being developed in the adjacent Belvidere Hospital site) and had a gross market value of £7,500,000. He advised the Council to commission their own professional advice before agreeing the discount for abnormals, and also advised them to include a clawback clause in the terms of the sale in case a future development results in a higher site value.

In June 2005, the Council consulted the Health and Safety Executive ('HSE'), a UK Government regulator, about the size of a blast zone around the nearby John Dewar & Sons Ltd Whisky Distillery and Bonded Warehouse. HSE advised against residential development on the 0.7 hectares in this zone. Based on this advice, the Council initially estimated that the site could still realise its maximum capacity of 258 units if it was developed in such a way that the blast zone was used only for landscaping, open space areas, and access roads. But they later adjusted this to 160 units due to site access restrictions along a single track road.

In December 2005, the Council proposed that the Club could pay an initial £250,000 along with the excambion² of the nearby Strathy Park site and a further £100,000 the following financial year. In August 2006 the DVS advised that this arrangement would benefit the Club by £90,000 if the Council based its valuation on a unit price of £24,000, 160 units as the maximum density, and deducted £3,500,000 for abnormals. But he acknowledged that this was necessary to ensure the Council's ownership of Strathy Park.

² "excambion" is a Scots law term for the transfer of land by way of exchange.

He also advised that, if the maximum density of the site was 160 units and the unit value was £29,000 (using a 10% deduction from figures for the adjacent Belvidere site as a comparator), the gross valuation of the site was £4,640,000. If the abnormalities were £3,500,000, he advised that this produced a residual site valuation of £1,140,000 subject to confirmation of the Belvidere site. The evidence suggests that the significant difference of views on valuation stemmed from differing views as to the potential development density of the site and the allowance for “abnormals”. The allowance for abnormalities appears to have been reduced by negotiation..

In February 2007, the DVS noted that the Council was going to appoint an arbiter to agree the market value for the site. He urged the Council to use the adjacent hospital site as a comparator to inform that valuation, to agree that the eventual sale price would take into account the higher of RPI or actual site valuation on the date of the sale, and to increase the rental of the site from £30,000 to £45,000 per year.

In September 2007, the Club offered the Council £500,000 for the site, based on a maximum capacity of 160 units and a return per dwelling unit of £25,094 less abnormalities reduced to £3,515,000 for the blast zone (i.e. a gross valuation of £4,015,000). Next month, after further negotiations, the Club agreed a revised figure of £675,000 based on £26,187 per unit.

In April 2009, when the transaction was finally concluded, the Club paid £675,000 for the site, plus £64,500 to take account of retail price index inflation. The Council included a clawback provision whereby the Council would receive 50% of any profit generated from the further sale or other disposal of the site to a third party within 5 years. The Strathy Park site did not form part of the concluded deal for Westthorn.

The transaction was concluded more than 4 years after the DVS valuation in January 2005. The DVS continued to advise and assist the Council during the continuing discussions and negotiations about the sale of the site. This included advice on the basis of housing densities lower than those originally assumed by the DVS for the purpose of its initial valuation.

In November 2013, the Council commissioned a valuation of the site from Savills (UK) Ltd (‘Savills’), chartered surveyors and an independent real estate practice. The Council requested valuations at the time the sale was agreed, completed, and its contemporary value. Using examples of similar properties sold at the time, Savills’ valued the site in all years as £200,000. Savills considered that the Club’s position as “special purchaser” would have increased its value by up to 50%. Given both the passage of time and questions concerning the basis of the ex-ante valuations, this valuation is the best available evidence of market value at the time of the transaction.

Assessment of the measure

For this measure to constitute State aid, all of the following conditions would have to be fulfilled:

- a. use of State resources
- b. a selective advantage in favour of Celtic
- c. distortion of competition

d. trade between Member States affected

The measure involved the transfer of land from public ownership to the Club, hence there was a transfer of State resources to a single beneficiary though this was in return for payment by the Club above the market value indicated by the ex-post valuations.

Since the Club participates in European football tournaments and is active in markets such as the transfer market for professional players, any measures benefitting the Club have the potential to distort trade and competition between Member States.

However, no economic advantage was granted to the Club. The Council acted in a manner comparable to that of a rational private operator seeking to maximise its return within the context of this transaction. The subsequent retrospective valuation confirmed that the transaction was on commercial terms. The Club's financial situation was therefore not improved and the measure did not constitute State aid.

Annex C – Land transactions between Glasgow Council and Celtic Football Club

Several complainants alleged that Glasgow City Council ('the Council') gave unnotified State aid to Celtic plc ('the Club') through various land transactions on advantageous terms to the Club.

Background

Glasgow's bid to host the 2014 Commonwealth Games gave the Council an opportunity to make a significant contribution to its regeneration strategy. To develop the athletes' village, the Council acquired land from several landowners, including Strathy Park from the Club. The Council began these transactions before Glasgow was confirmed as the host city to avoid the subsequent increase in land prices.

The Council granted planning consent for the East End Regeneration Route (EERR) in 2005. It was developed to improve road accessibility in the area by linking the M74 motorway to the M8/M80 motorways. Its delivery was facilitated through Compulsory Purchase Orders. The Club objected because this removed its coach parking facility, until the Council agreed to provide facilities at the National Indoor Sports Arena.

From the Club's perspective, these transactions allowed it to address traffic circulation, access and parking problems. On match days, the precinct was not effective in terms of pedestrian traffic management. On other days, the area was very unattractive. The EERR had the effect of defining the 'Celtic Triangle' which includes the stadium (which will be the venue for the opening ceremony of the Commonwealth Games) and the precinct containing the Club shop, ticket offices, car parking, and space for people to circulate during matches and other events.

The sites below are in Glasgow's east end, which is a national regeneration priority area. It has the largest cluster of areas in the top 5% of the Scottish Index of Multiple Deprivation zones and is also eligible for Regional Aid under article 107(3)(c). Over the period of the transactions, the Council was actively seeking to dispose of low value land suffering from severe development constraints and acquire land for regeneration projects. The Council identified the 'Celtic Triangle' as a key element of its development strategy for the area.

Description of the measures

Over the past 10 years, seven interdependent land transactions took place between the Council and the Club. The transactions were highly interdependent and therefore negotiated jointly. This included the Westthorn transaction described in Annex B.

1. **Coach park (1ha/2.5 acres):** a licence for the Club to use the coach park at the National Indoor Sports Arena ('NISA'). In 2005, the DVS proposed a fee of £45,000 based on 10% decapitalised construction costs of £450,000. The Club countered this with a proposal of £3,000 per annum based on £50,000 per acre, a 50% discount for shared use, and decapitalising by a factor of 20% to rental of £1,250 per acre. The Council and the Club agreed a rental figure of £30,000 per annum. The Council and the Club also agreed the use of the London Road School site at £15,000 per annum but with a cap of £30,000 per annum on the total for both sites (see 4 below).

In November 2013, Savills valued the rental on this site for the Council at £5,000 per year.

2. **London Road School (0.3ha/0.8 acres):** an option granted by the Council to the Club to purchase this site any time up to 1 April 2014. In January 2005, the DVS estimated its value on the open market at £721,500 and £830,000 to a special purchaser. In 2007, the Council and the Club agreed its value at £300,000 plus Retail Price Index inflation. The Club purchased the school on 30 January 2014 on these terms. In August 2013, City Property (Glasgow) LLP, the Council's arms-length property advisory organisation, valued the site at £230,000. In November 2013, Savills provided a retrospective valuation of this site for the Council at £100,000. Both of these valuations were prior to the purchase being completed. They both indicated a market value lower than that actually paid by the Club. The DVS estimated valuation was some 9 years prior to the conclusion of the sale to the club and the more recent valuations would therefore appear to constitute the best available evidence of market value.
3. **The Celtic Triangle (2ha/5.1 acres):** the sale of five plots of land from the Council to the Club. In October 2004, Montagu Evans, chartered surveyors valued these plots for the Club at £240,000. In January 2005, the DVS valued these sites for the Council at £878,500 on the open market or £1,320,000 to a special purchaser. In May 2005 the DVS accepted a valuation based on £100,000 per acre to include special purchaser element. In April 2009, the Council sold them for £514,000 (in line with the valuation). In November 2013, Savills provided retrospective valuations of these plots for the Council at £385,000 in 2005 and £436,000 in 2009.
4. **Temporary coach parking (linked to 1 above):** the Council agreed to provide temporary coach parking in two other sites if NISA was not complete. In 2009, the Council and Club agreed a licence for £1/yr in an area acquired by the Council for the East End Regeneration Route and a licence for £15k/yr in part of the former London Road school site. The licence for the school site was until 1 April 2014 or the date of settlement if the Club exercises its option to purchase the site. The aggregate licence fee payable for the temporary coach parking and NISA was capped at £30,000. In November 2013, Savills provided a 2009 valuation for the London Road school site at £2,800 per year.
5. **Strathy Park (2.3ha /5.6 acres):** this transaction was the purchase of this site by the Council from the Club for the Commonwealth Games athletes' village. The Council and the Club commissioned their own valuations but could not reach agreement. In June 2007, both parties jointly instructed James Barr, chartered surveyors, to value this site and agreed to be bound by the independent valuation. The site was valued by James Barr at £500,000. In April 2009, the Council acquired Strathy Park for £497,000. The Council therefore paid slightly less to the Club for the land than its agreed valuation, providing no commercial benefit to the Club.
6. **Barrowfield St (0.5ha/1.3 acres):** the acquisition by Compulsory Purchase Order of this site by the Council from the Club for the East End Regeneration

Route. In April 2009, the Council paid the Club £100,000 for this site. In November 2013, Savills provided a 2009 valuation of this land for the Council at £111,350. Again the Council has paid slightly less to the Club than the valuation of this land.

Assessment of the measures

For this measure to constitute State aid, all of the following conditions would have to be fulfilled:

- a. use of State resources
- b. a selective advantage in favour of Celtic
- c. distortion of competition
- d. trade between Member States affected

The measures involved the transfer of land from public ownership to the Club, the right for the Club to acquire publicly-owned land, or payment for land from the Council to the Club, hence there was a transfer of State resources to a single beneficiary.

Since the Club participates in European football tournaments and is active in markets such as the transfer market for professional players, any measure benefitting the Club had the potential to distort trade and competition between Member States.

However, no economic advantage was granted to the Club. The Council acted in a manner comparable to that of a rational private operator seeking to maximise its return within the context of this transaction. The subsequent retrospective valuation confirmed that the transactions were on commercial terms with sums paid representing market value. The Club's financial situation was therefore not improved and the measure did not constitute State aid.

Annex D – Use of Celtic Park for Glasgow Council functions

The complainant alleges that Glasgow City Council ('the Council') gave unnotified State aid to Celtic plc ('the Club') through the preferential awarding of Council functions.

Description of the measure

The Council's Education Department uses third party venues for large functions when its own facilities are unavailable or unsuitable. The contracts in question were below the EU procurement threshold, and therefore not subject to the Public Contracts (Scotland) Regulations 2012 and their predecessors, implementing Directive 2004/18/EC.

The Council asserts that it selects venues based on their capacity, facilities, accessibility, catering, and cost. We have no documents to show how these criteria are weighted and assessed, and whether competing venues are aware of this process. The Council asserts that it has selected Celtic Park most often because it best meets these criteria. To check that this is still the case, the Council conducted a telephone survey of alternative venues and found that they had higher delegate rates, limited capacity, and charged for parking.

In 2011, the Council's Education Department held six events at Celtic Park, costing a total of £31,663. In 2012, 14 events costing £42,472, and in 2013, three events for £15,069.

Assessment of the measure

For this measure to constitute State aid, all of the following conditions would have to be fulfilled:

- a. use of State resources
- b. a selective advantage in favour of Celtic
- c. distortion of competition
- d. trade between Member States affected

The measures involved payment from the Council to the Club for the use of its stadium to host functions, hence there was a transfer of State resources to a single beneficiary.

However, no economic advantage was granted to the Club. The Club was paid at the commercial rate it charges all clients and its financial situation was consequently not improved as a result of the measure. Moreover, the functions in question were for local delegates only and the value of the measure was not likely to attract competition from venue operators in other Member States, so the measure did not have the potential to distort trade and competition between Member States. For these reasons, the measure did not constitute State aid.

Annex E - Use of discounted land to secure private finance at favourable rates

The complainant alleges that Celtic plc ('the Club') raised private finance at favourable rates in the form of loans secured against land bought from Glasgow City Council ('the Council') based on values significantly above the purchase price.

Comment

These transactions are private commercial transactions and we would require an explicit and formally justified request from the Commission before we could approach the Club for information about them.