

**ANGUS COUNCIL**

**7 FEBRUARY 2019**

**LOCHSIDE LEISURE CENTRE**

**REPORT BY HEAD OF INFRASTRUCTURE**

**ABSTRACT**

The report seeks to inform the Members regarding Lochside Leisure Centre, Craig O' Loch Road, Forfar; and the options for consideration.

**1. RECOMMENDATION(S)**

It is recommended that the Council

- i) confirms that the former Lochside Leisure Centre, Craig O' Loch Road, Forfar, shown outlined on the plan at **Appendix 1**, is demolished with the Common Good land lying beneath reinstated to extend the park.
- ii) Agrees that the modular building previously used as changing rooms is offered for sale subject to removal by prospective purchasers

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

The proposal contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

**ECONOMY**

- An inclusive and sustainable economy;

**PEOPLE**

- Improved physical, mental and emotional health and well-being;

**PLACE**

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint.
- An enhanced, protected and enjoyed natural and built environment.

**3. BACKGROUND**

3.1 Lochside Leisure Centre building, the surrounding car parks and the tennis courts are on Common Good Land sited in Forfar Country Park. There is a playpark adjacent to the building and Lochside Caravan and Motorhome site is a short distance from the centre.

3.2 The building as shown on the plan at **Appendix 1** is not held on the Common Good Account and is no longer used by AngusAlive, following the completion of the new Forfar campus in February 2017.

3.3 The building was declared surplus and Item 10 of the Minutes of the Meeting of the Policy and Resources Committee held in the Town and County Hall, Forfar on Tuesday 1 May 2018 records

*"The Committee agreed to approve that the former Lochside Leisure Centre, Craig O'Loch Road, Forfar, shown outlined on the plan attached as Appendix 1 to the Report, be declared surplus to the Council's requirements and demolished with the land reinstated."*

- 3.4 The building, built in the 1970s has suffered from subsidence over a number of years. Reports and monitoring undertaken since the 1980's record building problems and gradual differential settlement of the building attributed to the technique for construction of the foundations which was an early version of vibro replacement piles through a layer of refuse found to be 3 metres thick in the vicinity of the building.
- 3.5 As a consequence the building exhibits cracking in walls and floors, uneven floors which are no longer level, and brickwork which is no longer plumb and has been subject to a variety of remedial works over the years,
- 3.6 In May 2018 the Policy and Resources Committee took the decision to demolish Lochside Leisure Centre. The council undertook a review of the decision in Report No 151/18 through the Internal Audit team. The review was reported to Scrutiny and Audit Committee on 20 November 2018 in Report No 362/18. The report noted:

*"In August 2018 the Depute Leader raised a proposal with the Chief Executive that the Administration were considering revisiting the decision concerning Lochside Leisure Centre. They had been approached by a potential buyer. During August the potential buyer was given access to the building and commissioned a Structural Inspection."*

- 3.7 The third party consultant undertook an inspection as noted above. This was a non- intrusive examination of the building, without lifting carpets to examine floor slabs.
- 3.8 Report No 362/18 recorded the conclusion of this third party inspection as follows:

*"... it would appear the building does show evidence of structural settlement; however, the defects noted are not symptomatic of ongoing or progressive structural movement. The nature of the finishes in the building would clearly present evidence of ongoing ground movement issues: this evidence was not observed during the inspection"*

- 3.9 The council commissioned a report from a consulting engineering company which was included in the Scrutiny and Audit Committee information. This was similarly a visual and non-disruptive inspection. The report concludes:

*"From our limited inspection we saw no indication of recent dramatic movement. Movements are not severe, but in places are significantly worse than normally expected or considered acceptable. Conditions might be expected to continue similar to existing for some years with some gradual ongoing movement and deterioration, however no definite assurances would be given, and foundations and future movement integrity and stability must be considered suspect. Inspection monitoring is recommended to continue, to ensure safety is not compromised."*

- 3.10 Item 7 of the Minute of Meeting of the Scrutiny and Audit Committee held on 20 November 2018 recorded:

*"The Service Leader – Internal Audit advised that in gathering all the evidence, the decision taken by the Policy and Resources Committee was sound.*

*The Chief Executive re-iterated that the decision of the Policy and Resources Committee stood, unless a further Report was considered under Standing Order No 26.*

*The Committee agreed to note the contents of the Internal Audit Review of Lochside Leisure Centre."*

## **4 UPDATE**

- 4.1 As part of ongoing dialogue with the potential purchaser, the council shared its previous information on the building including inspection reports and asbestos surveys. The third party consultancy that carried out the previous inspection on behalf of the potential purchaser reviewed the documentation and provided at update as follows:

*“The general conclusion from each of the reports was that the building presents evidence of significant foundation settlements; however, any ongoing movements are very gradual and do not present an immediate threat to the stability of the building. All reports suggest that the building is monitored on a regular basis.”*

And

*“The information discussed corroborate the findings of our survey report carried out in September 2018. We stated that the building does show evidence of structural settlement; however, the defects noted are relatively minor and are not anticipated to compromise the long-term stability of the building. Cyclic movement of the foundation system will require a general maintenance programme to be implemented to preserve the building fabric condition. Such maintenance regimes have already been employed in the past to preserve the aesthetic appearance of the building.*

*We can conclude that the building is in a structurally sound condition with any general foundation movements only affecting the internal / external finishes and not causing any material impact on the main structural elements of the building itself. With a proper maintenance and inspection regime put in place we do not anticipate that there is any reason why the building cannot remain in a structurally sound condition with its lifespan extending for a further 30 years and beyond.”*

- 4.2 The difference of opinions is in terms of the serviceable life of the building; with uncertainty over the foundations stability, and with ongoing maintenance and, revenue costs. With over 20 years of inspections of the building until shortly before its closure, problems have persisted, and can be foreseen as ongoing, to a point that, the building is no longer serviceable.
- 4.3 The potential purchaser has stated in the media that they were not intending to submit an offer for the building.
- 4.4 Subsequent to this coverage in the media, other parties contacted the council regarding potential purchase/use of the property. To ensure equity with the original potential purchaser, these parties and others who had previously enquired about the building were contacted and given the opportunity to inspect the building on 23 January 2019. The following was issued to nine parties:
- The letter as per **Appendix 2**
  - Layout plans of the building and surrounding area
  - Structural reports and surveys by the council dating from 1998 to 2010
  - Asbestos surveys
- 4.5 On 23 January 2019 four parties took up the opportunity to view the property. One of the parties was the original potential buyer noted by the Depute Leader. No party undertook any further professional survey.
- 4.6 Of the new interested parties one party submitted an offer by the due date. The offer was unconditional; was for the building, 2 car parks, outbuildings and the tennis courts. Details of the offer are provided in Report No, 49/19 which is an exempt report as the amount offered should be treated as commercially confidential.
- 4.7 One of the remaining parties submitted a pre-enquiry form for a potential partnership Community Asset Transfer (CAT) for lease of the building from Angus Council dated 25 January 2019. A pre-enquiry has no formal status in terms of CAT legislation and no formal CAT application has been received at the time of writing this report.
- 4.8 One party submitted a planning application in 2018 for the tennis courts and has previously indicated the intention to submit a Community Asset Transfer (CAT) request for purchase, but as above, at the time of writing no CAT application has been received.
- 4.9 In addition a local football club is interested in removing and using the modular building changing rooms which is part of site to be cleared, this would assist the team and have some savings in the disposal costs. It is feasible to advertise these for sale subject to removal by prospective purchasers.

## 5 CURRENT POSITION

5.1 Subsequent to Report No 362/18, and in the absence of a further Report under Standing Order No 26, officers have procured the demolition of the building. Tenders were received on 11 January 2019 and remain open for acceptance until 11 April 2019.

5.2 The costs to demolish the building are set out below:

### Committed to date

Committed for professional fees	£26,000
Separation of Service Connections to Rangers Centre	£17,500
Securing Empty Building and Associated Maintenance Works	£16,500
Disconnection of services – committed to date	£7,600
Bat Survey	£3,900
Asbestos Testing	£1,400
Building Warrant and statutory approvals	<u>£15,500</u>
<b>Committed to date Total</b>	<b>£88,400</b>

### Further Costs

Demolition of Lochside Leisure Centre together with New Landscaping and Remedial Works	£344,800
Allowance for professional fees and supervisory and administrative costs	£11,100
Disconnection of services – to complete	£7,500
Allow a provisional sum for Street Lighting Works	£10,000
Allow a provisional sum for Grass Seeding and Maintenance to be Provided by Others	<u>£7,000</u>
<b>Further Costs Total</b>	<b>£380,400</b>

5.3 The previous estimate and budget provision for the project was £500,000. This sum is included in the Council's existing capital budget for 2018/19.

5.4 Progressing the demolition project would therefore incur a further £380,400 of expenditure. Completion of the separation of the utilities only will cost a further £7,500.

5.5 Given the submitted offer for the building, it is appropriate for council to consider the merits of such an offer alongside the steps to progress the disposal of the building and the common good land.

5.6 The council has policy guidance on the Common Good Funds under Appendix 5(a) of the Financial Regulations. The Local Government (Scotland) Act 1994 s15 (4) requires the Council to have regard to the interests of the inhabitants of the area to which the Common Good formerly related when administering the Common Good Funds. The council is to ensure the long term sustainability of the common good fund, retention of the ownership best meets our aspiration to ensure the community has full access to this part of the country park for future generations. Any disposal or Community Asset Transfer will lead to a period of delays whilst the statutory processes for consultation and possible court approval are complied with. During which period, the building will incur maintenance costs and the demolition contract cannot be awarded and no access will be available to this area of land.

5.7 The provisions of Section 104 (disposal and use of common good property: consultation) of the Community Empowerment (Scotland) Act 2015 came into force on 27 June 2018. Section 104 requires that, before taking any decision to dispose of, or change the use of common good property, the council must publish details about the proposal and notify certain bodies and invite those bodies to make representations in respect of the proposal.

5.8 The decision to demolish the building pre-dates this legislation. Accordingly, legal advice is that there is no requirement to consult on the demolition of the building including the reinstatement of the ground and landscaping as part of the country park.

- 5.9 If Members are minded to dispose of, or change the use of the Common Good land on which the Leisure Centre is built, other than by demolition, the requirement to consult now applies. Whilst there is limited experience nationally in undertaking this new requirement **Appendix 3** seeks to set out the expected process along with an estimated timescale.
- 5.10 In addition, there is the strong possibility that any disposal of the common good land would require court approval in accordance with Section 75 of the Local Government (Sc) Act 1973. This requires a local authority to seek court approval (Sheriff Court or Court of Session) when a question arises as to its right to alienate the land. This would include a lease as well as a sale. There are three factors to consider:
- Has the land been used from time immemorial by the public,
  - Has it been dedicated for public uses; and
  - How the title deed is worded i.e. does it specifically prohibit disposal.

Angus Council has not to date sought court approval for disposal of Common Good land and careful consideration will need to be taken as to whether this is required in the case of the land at Lochside Leisure Centre. For the purposes of assessing the financial implications in this report it has been assumed that court approval will be required,

- 5.11 A decision not to go to court may be open to challenge and the Council may wish to assess that risk in deciding whether to go to court. It would be prudent to consult in terms of Section 104 and assess the representations received as part of assessing that risk. The risk may be mitigated by seeking counsel's opinion on the matter and this would need to be considered at the appropriate time. The estimated timescale for the consultation and possible subsequent court process is between 6 and 18 months. The estimated costs arising will include officer time and potential Queens Counsel costs and current costs of rates and utilities/security for the building would continue to be incurred by the council whilst the consultation and court proceedings were progressed.

## 6 FINANCIAL CONSIDERATIONS

- 6.1 Section 7 below outlines the options available to the Council as next steps. In summary these are:-
- 1 – Do nothing ( not recommended)
  - 2 – Demolish (recommended)
  - 3 – Sale via current offer (not recommended in compliance with Financial Regulations 17.2)
  - 4 – Sale via full and formal marketing (significant risks, time and financial implications – not recommended)
  - 5 – Disposal via Community Asset Transfer (no such application currently exists, any applicant could apply to buy or lease – significant risks, time and financial implications – not recommended)
- 6.2 The demolition option is as estimated above, at £455,000, and can be accommodated in the budget provision for the project. Some £88,400 of this total has already been incurred or committed.
- 6.3 If the demolition is delayed beyond the current date for the tender to be accepted, the project would need to be retendered with some additional staff costs and potential variation in the current prices.
- 6.4 The Sale Options and CAT option would incur costs as set out below.
- 6.4.1 Unavoidable running costs for building of £4k per month are currently being incurred mostly for non-domestic rates and insurance. This excludes any costs which might arise from vandalism or other emergency repair works which may be necessary until the building is sold or transferred to a community group through CAT. If it took until July 2020 to conclude a sale (per the steps in the table in **Appendix 3**) then this would incur additional costs of £48,000 in comparison to the demolition option (assuming a June 2019 completion for demolition). If the court process takes longer the £48,000 will rise by £4,000 per month.

- 6.4.2 Sale of the building via the current offer (Option 3) would bring a capital receipt to the Forfar Common Good account (land) and General Fund capital account (building).
- 6.4.3 Sale of the building via full and formal marketing (Option 4) will depend on market interest and intended use but given the building condition this may not be a significant sum.
- 6.4.4 A sale would also mean a shared responsibility for the maintenance of the access road and street lighting and bring a small financial benefit to the Council in this regard.
- 6.4.5 Any sale (Option 3 & 4) may result in legal costs to the Council. QC costs for Court of Session work are estimated to range between £30,000 and £50,000. This is an estimate based on previous cases taken to the Court of Session but this cost could increase or decrease depending on the complexity of the case. As we have not raised an action of this type (Common Good disposal) before we cannot compare it directly to other cases. The cost might be less if an action can be raised in the Sheriff Court but it might be decided that Counsel/external legal advice is still required as the in-house legal team do not have the experience/capacity to raise this type of action.
- 6.4.6 Officer time to pursue sale including the community consultation, and the internal legal work required to prepare any court case alongside a QC would be sizeable and has been estimated at £15,000 to £25,000. Further low level costs associated with marketing for sale would also be incurred and is estimated at £3,000 to include in house staff costs.
- 6.4.7 Although there appears to some potential community interest in the CAT (Option 5) this is uncertain both in terms of whether any application will ultimately be forthcoming and in what timescale and on what terms. The costs associated with a CAT would be similar to sale as the same court process would need to be followed even for a lease.
- 6.5 The table below summarises and compares the possible financial implications of the options. Figures have only been estimated for main costs given time constraints to produce this paper.

	<b>Demolition £000</b>	<b>Sale/CAT £000</b>	<b>Comments</b>
Outstanding Works costs including fees	380.4	7.5	Utilities only costs under sale option
Additional running costs (NDR, etc.)	n/a	48	Considered <u>minimum</u> likely additional cost
Additional vandalism /emergency work costs while awaiting sale	n/a	2	Unknown, an area of risk, estimated at £2,000
Legal costs from court process	n/a	50	Upper estimate used given uncertainty
Marketing and public consultation costs	n/a	18	Estimated at £3,000 for marketing; £15,000 <u>minimum</u> for consultation and officer time
<b>Sub-total of Costs</b>	<b>380.4</b>	<b>125.5</b>	
Less capital receipt	n/a	Unknown	Any receipt achieved would offset some of the costs.

- 6.6 Although based on the assumptions made the sale/CAT options could deliver a better financial outcome for the Council these options carry several significant uncertainties and risks which the Council cannot control. The possibility of the Council incurring additional costs as part of a sale/CAT process which could then be blocked or abandoned at several points along the way and then still ultimately having to demolish the building (at higher cost due to inflation) cannot be ruled out. The sale/CAT options take the final outcome, delivery timescales and costs largely outwith the Council's direct control and this risk needs to be considered alongside the possible financial implications of the different options.
- 6.7 Use of the site would be regulated through future planning applications, in the event of disposal the council would seek to impose a clawback clause to secure a financial repayment if the purchaser/CAT sought to change the use of the building or land to residential purposes.
- 6.8 Appendix 3 sets out more detail on the steps, potential timeline and associated possible risks.

6.9 The costs of demolition of the building and reinstatement of the Country Park fall to the General Fund. However any capital receipt would be split proportionately between the General Fund and the Forfar Common Good Fund. Likewise the cost element associated with the disposal of the Common Good land would fall to the Common Good Fund. From the table above the Common Good would bear the costs of the legal process. Depending on the costs for the consultation and legal process, set against the proportion of any capital receipt achieved there is a possibility that sale or CAT will result in a net cost to the Forfar Common Good fund, i.e. the costs of achieving disposal may be more than any receipt or income achieved from sale or CAT..

## 7 OPTIONS

7.1 As noted in Section 6 the council has a number of options as set out in the table below;

Description of option	Advantages	Disadvantages	Cost benefit analysis
<b>Option 1 –</b> Do nothing; leave the building as it is currently	<ul style="list-style-type: none"> <li>No legal issues</li> <li>No further action required</li> <li>Retains control over land</li> </ul>	<ul style="list-style-type: none"> <li>Building is seen as unsightly by some</li> <li>Risk of vandalism</li> <li>Future deterioration may require intervention</li> </ul>	<ul style="list-style-type: none"> <li>Avoids demolition costs at this time</li> <li>Avoids service separation costs at this time</li> <li>Incurs an estimated £48,000 cost per annum in rates/other running costs.</li> </ul>
<b>Option 2 –</b> Demolish	<ul style="list-style-type: none"> <li>No legal Issues</li> <li>Returns area to grass; providing further amenity area as part of the Country Park;</li> <li>Land remains as Common Good</li> <li>Retains control over land</li> </ul>	<ul style="list-style-type: none"> <li>Potential loss of capital receipt</li> <li>Delay to letting tender may impact on timing of demolition</li> <li>Risk of bat roosting to be determined</li> </ul>	<ul style="list-style-type: none"> <li>Incurs a further £380.4k in capital costs</li> <li>Saves rates/other running costs</li> </ul>
<b>Option 3 –</b> Sale via the current offer	<ul style="list-style-type: none"> <li>Avoids demolition costs</li> <li>Capital receipt</li> <li>Avoids marketing costs</li> </ul>	<ul style="list-style-type: none"> <li>Incurs utilities separation costs</li> <li>Incurs costs at £4k pcm, estimated at £48k prior to completion of sale</li> <li>Potential other interest, including CATs are not considered</li> <li>No justification for not seeking to maximise potential sale by placing on open market as per Fin Reg 17.2</li> <li>Risk – sale does not proceed or consultation shows resistance to sale of Common Good land/Country park – revert to demolition</li> </ul>	<ul style="list-style-type: none"> <li>Incurs costs of £125.5k minus capital receipt</li> </ul>

		<ul style="list-style-type: none"> <li>• Lose control of land apart from limited statutory powers such as planning enforcement</li> <li>• Loss of Country Park area and access to common good land by community</li> <li>• Risk of vandalism in interim</li> </ul>	
<b>Option 4 – Sale through marketing</b>	<ul style="list-style-type: none"> <li>• Avoids demolition costs if sale achieved</li> <li>• Capital receipt</li> <li>• Permits other interests to be explored in an open and transparent manner</li> <li>• Members can determine the areas for sale, such as car parks; outbuildings and tennis court, pitch &amp; putt</li> <li>• May generate greater capital receipt particularly if other areas offered to the market</li> </ul>	<ul style="list-style-type: none"> <li>• Incurs utilities separation costs</li> <li>• Incurs costs at £4k pcm, estimated at £48k prior to completion of sale</li> <li>• Lose control of land apart from limited statutory powers such as planning enforcement</li> <li>• Loss of Country Park area and access to common good land by community</li> <li>• CATs are not considered</li> <li>• Risk – no offers received</li> <li>• Risk – sale does not proceed or consultation shows resistance to sale of Common Good land/Country park – revert to demolition</li> <li>• Risk of vandalism in interim</li> </ul>	<ul style="list-style-type: none"> <li>• Incurs costs of £125.5k minus any capital receipt achieved</li> </ul>
<b>Option 5 – Community Asset Transfer</b>	<ul style="list-style-type: none"> <li>• Avoids marketing</li> <li>• Potential rental income or capital receipt depending on whether any CAT application is to buy or lease</li> </ul>	<ul style="list-style-type: none"> <li>• At end of lease the property returns to the council</li> <li>• Incurs utilities separation costs</li> <li>• Incurs costs at £4k pcm, estimated at £52k prior to completion of CAT</li> <li>• Control of land is limited to statutory powers such as planning enforcement</li> <li>• Loss of Country Park area</li> <li>• Risk – no CAT received</li> </ul>	<ul style="list-style-type: none"> <li>• Incurs costs of £129.5k minus rental income or capital receipt</li> </ul>



		<ul style="list-style-type: none"> <li>• Risk – CAT does not proceed or consultation shows resistance to sale of Common Good land/Country park – revert to demolition</li> <li>• Risk of vandalism in interim</li> </ul>	
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7.2 It is noted that at the time of writing no formal CAT application has been received in accordance with the council's CAT Policy. Option 5 is therefore not currently available to the Council. Given the challenges associated with maintaining the building, it is not considered appropriate to pass these liabilities to a community group.

## 8 CONCLUSION

8.1 Option 2 is recommended as per Report No 151/18 and confirmed in Report No 362/18 for the reasons explained within the report. The council is to ensure the long term sustainability of the common good fund and it is felt that Option 2 best meets our aspiration to ensure the community has full access to this part of the country park for future generations. Any disposal or Community Asset Transfer will lead to a period of delays whilst the statutory processes for consultation and possible court approval are complied with. During which period, the building will incur maintenance costs and the demolition contract cannot be awarded and no access will be available to this area of land.

**NOTE:** The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

Report No 151/18 - Surplus Property – Lochside Leisure Centre Policy & Resources Committee – 1 May 2018

Report No 362/18 - Internal Audit Activity Update - Scrutiny and Audit Committee – 20 November 2018

Minutes of Scrutiny and Audit Committee - 20 November 2018

**REPORT AUTHOR: Ian Cochrane, Head of Infrastructure**

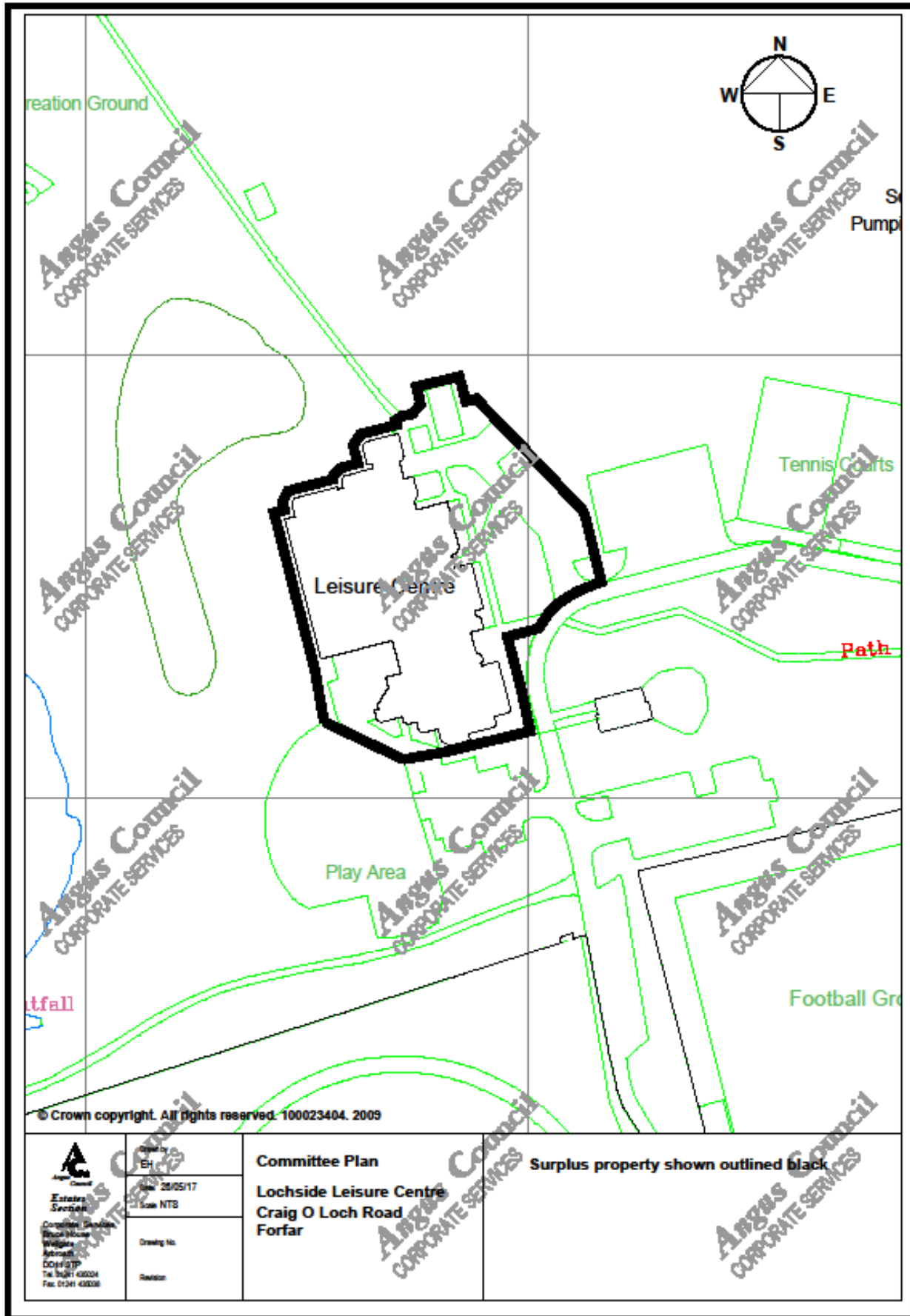
**EMAIL DETAILS: [CommunitiesBusinessSupport@angus.gov.uk](mailto:CommunitiesBusinessSupport@angus.gov.uk)**

List of Appendices:


Appendix 1 – Plan of former Lochside Leisure Centre, Craig O' Loch Road, Forfar

Appendix 2 – Letter to interested parties

Appendix 3 – Lochside Leisure Centre – Disposal Steps & Potential Timeline



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 <p>Angus Council Estate Services Comptroller, Dundee Blanch House Wellgate Aberdeen DD1 1GP Tel: 01391 42024 Fax: 01391 42028</p>	<p>Drawn by EH</p> <p>Date 28/05/17</p> <p>Scale NTS</p> <p>Drawing No.</p> <p>Revision</p>	<p><b>Committee Plan</b> <b>Lochside Leisure Centre</b> <b>Craig O Loch Road</b> <b>Forfar</b></p>	<p><b>Surplus property shown outlined black</b></p>
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## APPENDIX 2

Our Ref: AMcK/ABB 17 January 2019



### TO WHOM IT MAY CONCERN

PLACE

Strategic Director: Alan McKeown

**Lochside Leisure Centre**

### PLACE

Strategic Director:

Alan McKeown

Angus is aware that you have made contact regarding the surplus building that was previously used as Lochside Leisure Centre.

Angus Council's formal position, as agreed by elected members, is that Lochside Leisure Centre is to be demolished and the Council are in the final stages of assessing the tenders for demolition. This process will conclude shortly and the Council intends to formally commit to that demolition contract.

A number of parties have contacted the Council in recent days to express/note an interest in the building.

While Angus Council is not actively seeking offers for the building, an interested party was previously offered the opportunity to view and assess the building and was provided with information on the condition and running costs of the surplus asset. As such, the Council acknowledges it has a duty to treat all parties equally and demonstrate it has done so. Attached to this email are the relevant documents to assist any interested party.

Accordingly, Angus Council are contacting known interested parties to make them aware that only those parties who contacted the council previously will be given an opportunity to inspect the building on a date and time to be confirmed shortly. Thereafter, interested parties will have up to Noon on 30<sup>th</sup> January to submit a formal written offer for the building. All interested parties are advised to secure suitable surveys in relation to the building and ensure they are aware of the associated conditions that will be attached to this sale. Interested parties should make arrangements to ensure their due diligence is done on the 23<sup>rd</sup> January.

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### Lochside Leisure Centre – Disposal Steps & Potential Timeline

This paper summarises the main steps and the potential timeline which could apply if the Council decided to reverse a decision already taken at the Policy & Resources Committee on May 1 2018 regarding the demolition of the Lochside Leisure Centre (LLC). Officers have reviewed the legislation and in particular the community consultation requirements for Common Good asset disposals under the Community Empowerment Act and believe the steps and timeline for this (including undertaking marketing concurrently) is compliant with the legislation and guidance. There is as yet no case law on this so the suggested approach could be open to challenge.

There are **sizeable risks to pursuing sale** especially on timescales (and associated costs) and how long it might take the Courts to rule on an application to dispose of a Common Good asset. The other main risks would be timescale to implementation should a prospective buyer come forward; reputational risk regarding a decaying boarded up derelict building in a country park; and the conditions of sale which a prospective buyer may include in the missives of sale.

Potential Timetable	Step and Activity Required	Comments	Risks
Start date (potentially Feb 2019)	1. Council decides to reverse decision made in Report 151/18 to demolish LLC and either accept the current offer or to put the property and land up for sale.		Potential for no bids being received in practice or bids having significant / onerous conditions applied. Until missives signed potential purchaser can walk away.
10 weeks	2a. LLC marketed for sale on open market. Suggested duration 8-10 weeks including preparation of particulars etc. Marketing would not be necessary if option 3 is pursued but public consultation (see next step below) would still be required.	Marketing material would need to make clear the sale has a number of conditions including the need to consult the public as land is Common Good and the Community Empowerment Act and Community Empowerment and Common Good Property: Guidance for Local Authorities (issued July 2018) applies. In addition bidders would need to be aware of the potential for seeking court approval to sell.	Marketing at the same time as consulting under Community Empowerment could be challenged. Council could be criticised for having been seen to have decided before consultation has taken place but final decision is at Step 3.
8 weeks (in parallel)	2b. Public/community consultation undertaken on proposal	Running the consultation and marketing in parallel	Officer view is consulting on the disposal in general

	<p>to dispose of this asset in line with requirements of the Community Empowerment Act. Consultation to be open for minimum of 8 weeks.</p>	<p>allows both offers and public consultation output to be considered together. This concurrent approach also saves time and therefore cost to the public purse.</p>	<p>terms meets the Act requirements but this could be challenged. Challenger could argue consultation should be on both the disposal and the intended use by prospective purchasers.</p> <p>Work required by estates and other teams to carry out consultation will have an impact on other priority work and delivery of projects, some of which will be efficiency and savings related.</p> <p>Marketing and public consultation could result in renewed interest in the asset as a Community Asset Transfer. The Council would not be obligated to pause to consider the CAT providing marketing was underway.</p>
<p>Report preparation, potentially to May meeting of Angus Council</p>	<p>3. Council considers offers for the asset alongside results from public consultation and decides whether to pursue sale; CAT or revert to demolition option.</p>	<p>Council would not be obligated to sell and could decide to abandon sale depending on offers and community views.</p>	<p>If Council decided to amend its disposal intention e.g. to change the area being disposed of a further 8 week consultation under Community Empowerment would be required. Officer capacity to deliver to this timescale is challenging and will divert activity away from future projects.</p>
<p>8 weeks</p>	<p>4. Assuming decision is to pursue sale, Council and prospective purchaser to conclude missives of sale. Assume minimum of 8 weeks to do so.</p>	<p>Signed missives required before Council would incur cost of applying to Court of Session (see step 5 below).</p>	<p>Signed missives are binding on both parties, but would be subject to specific conditions from the seller and purchaser perspective. Council</p>

			would include approval of court; Purchaser likely to include planning permission as a condition of buying if intending change of use, along with title checks, etc.
Application made August 2019. Decision by June 2020	5. Following conclusion of missives the Council would need to apply to Court of Session for permission to sell the Common Good asset. Application to Court will require QC input and associated cost.	Timescale and cost could be reduced if authority from the Sheriff Court could be achieved. This option would need to be investigated further.	Main risks here are refusal of our request to dispose and the timescale for getting the case heard and a decision made. At minimum this is likely to take 6 months if no challenge but could take significantly longer.
July/August 2020	6. Assuming Court of Session approves sale the sale could be concluded subject to resolution of any other conditions in the missives which apply	Timescale assumes no other conditions per the missives requires to be met before sale goes through	Even if Court of Session authority is obtained the purchasers conditions e.g. planning permission may not be achieved effectively ending the sale process