

# ANGUS COUNCIL

MINUTE of the SPECIAL MEETING of the **POLICY AND RESOURCES COMMITTEE** held in the Town and County Hall, Forfar on Thursday 26 September 2019 at 3.00 pm.

**Present:** Councillors DAVID FAIRWEATHER, ANGUS MACMILLAN DOUGLAS OBE, BRIAN BOYD, RONNIE PROCTOR, LYNNE DEVINE, BILL DUFF, SHEILA HANDS, BEN LAWRIE, IAN MCLAREN, BOB MYLES, MARK SALMOND, RON STURROCK, CRAIG FOTHERINGHAM and BRENDA DURNO.

Councillor FAIRWEATHER, Convener, in the Chair.

## 1. APOLOGIES/SUBSTITUTES

Apologies for absence were intimated on behalf of Councillors Braden Davy, Derek Wann and Beth Whiteside with Councillors Ronnie Proctor, Craig Fotheringham and Brenda Durno substituting respectively.

## 2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

## 3. RECEPTION OF DEPUTATIONS

The Committee agreed to hear each deputation as part of the relevant item on the agenda.

## 4. COMMUNITY ASSET TRANSFER ANNUAL REPORT 2018/19

There was submitted Report no 326/19 by the Director of Finance, presenting the Angus Council Annual Report on Community Asset Transfer (CAT) activities in Angus for the 2018/19 financial year.

The Report detailed the applications received and the outcomes, together with details of the assets and community bodies involved for those applications approved, and progress made during the year. A specialist post of Community Empowerment Support Officer had required to be created had been recruited to act as a dedicated point of contact for community bodies, officers and members of the public. The postholder also dealt with the extensive administrative load generated by the significant level of interest in CAT applications, which, while welcome, did put pressure on limited staff resources.

The Committee agreed:-

- (i) to note the requirements of legislation as outlined in the report;
- (ii) to note the summary of activity described in Section 4 and Appendix 1 to the Report;
- (iii) to note the significant draw on officer time resulting from the new legislation and the challenges this brought in an environment of restricted staff resources; and
- (iv) to approve publication of the report on the Community Asset Transfer pages of the Council's website.

## 5. COMMUNITY ASSET TRANSFER APPLICATION – DECISION – STRATHMORE RUGBY CLUB, INCHMACOBLE, FORFAR

There was submitted Report No 327/19 by the Director of Finance, seeking the Committee's decision on a Community Asset Transfer made by Strathmore Rugby Club for the smaller, most westerly rugby pitch at Inchmacoble, by Forfar Loch. The Club wished to take ownership of the asset. Two objections received had indicated a preference for the common good land to be leased rather than sold to the club.

The Director of Finance gave an overview of the application, and thereafter the Committee heard Mr Stuart Gray on behalf of the applicant.

The Committee then considered the application and Officers responded to members' questions. Mr Gray also responded to members questions.

The Committee agreed:-

- (i) to note the background to Community Asset Transfer (CAT) and the Council's policy and method of assessing applications as set out in Report No105/18;
- (ii) to note the summary information on this CAT application contained in Appendix 1 to the Report;
- (iii) to note the outcome from the assessment process and the views of the Community Asset Transfer Group (CATG) as outlined in Section 4.5 of this Report regarding this application;
- (iv) to note that this application concerned a Common Good Asset;
- (v) to note the Common Good considerations and consultation arrangements required by legislation and the results from this as set out in Section 5 and Appendix 2 of this Report;
- (vi) that taking into account feedback through the consultation process and member concerns regarding the sale of Common Good land along with recognition by the Committee of the community benefits which would arise from the applicant's project, and the support expressed for the project by local elected members, to approve the application on the basis of a lease arrangement rather than a sale, the lease duration to be 99 years, at a lease rental and other terms to be negotiated with the applicant by the Director of Infrastructure with advice from the Director of Finance;
- (vii) to authorise the Director of Legal and Democratic Services to petition the court under Section 75(2) of the Local Government (Scotland) Act 1973 for authority to dispose of by lease the area of common good land covered by this application and conclude formal legal agreements before the transfer formally took place and note that terms and conditions in line with the Council's agreed policy would apply;
- (viii) that, having taken cognisance of the terms of Paragraph 6.3 of the Report, and having heard the views of the Forfar elected members present, and from the Director of Infrastructure as to the current level of funds in the Forfar Common Good Fund, the cost of obtaining court approval be met on a 50:50 basis between the Forfar Common Good Fund and the applicant;
- (ix) to note that in view of the decision to seek from the applicant 50% of the legal costs under Paragraph (viii) above, the applicant could, if they so chose, abandon the CAT process;
- (x) to note that as the application had been agreed with a significant amendment in that the arrangement would be for a lease rather than the sale requested by the applicant, and that the applicant would require to contribute to the costs of the court process, the applicant could apply for a review of the decision to the Council's CAT Decision Review Committee and ultimately appeal to Scottish Ministers; and
- (xi) to note that officers would report back to this Committee on the outcome of the court process in due course.

**6. COMMUNITY ASSET TRANSFER APPLICATION – DECISION – FORMER TENNIS COURTS AND ASSOCIATED PARKING, LOCHSIDE LEISURE CENTRE, CRAIG O'LOCH ROAD, FORFAR**

There was submitted Report No 328/19 by the Director of Finance, seeking the Committee's decision on a Community Asset Transfer (CAT) application recently submitted regarding a Council Asset.

The Director of Finance gave an overview of the application, and thereafter the Committee heard Ms Shona Forbes on behalf of the applicant.

The Phoenix (Forfar) Gymnastics Club had applied for a CAT for the former tennis courts and associated car parking, Lochside Leisure Centre, Craig o'Loch Road, Forfar to take ownership of the land previously operated as tennis courts and acquire the rights to use the associated car parking. Both the former tennis courts and the car parking were on land held on the Forfar Common Good Account. The Group then planned to build a unit to house a purpose built gymnastic facility for which planning permission had already been granted with conditions.

The Group had offered to purchase the land for £500 while the market value for the area subject to the CAT was estimated at £5,000 based on current use. In the event of the ground being sold to the applicants, and the assets being transferred out of the Common Good Fund Account, The Community Empowerment (Scotland) Act 2015 required additional consultation measures to be taken where there was a proposed change of use for disposal affecting a Common Good Asset.

Three objections have been lodged to the application, two of which expressed a preference for long term lease rather than sale of Common Good land. Either a sale or lease of the land represented a disposal requiring Court approval with consequent costs.

The Committee then considered the application and Officers responded to members' questions. Ms Forbes also responded to members questions.

The Committee agreed:-

- (i) to note the background to Community Asset Transfer (CAT) and the Council's policy and method of assessing applications as set out in Report 105/18;
- (ii) to note the summary information on this CAT application contained in Appendix 1 of this Report;
- (iii) to note the outcome from the assessment process and the views of the Community Asset Transfer Group (CATG) as outlined in Section 4.5 of this Report regarding this application;
- (iv) to note that this application concerned a Common Good Asset;
- (v) to note the Common Good considerations and consultation arrangements required by legislation and the results from this as set out in Section 5 and Appendices 2a and 2b of this Report;
- (vi) that taking into account feedback through the consultation process and member concerns regarding the sale of Common Good land along with recognition by the Committee of the community benefits which would arise from the applicant's project, and the support expressed for the project by local elected members, to approve the application on the basis of a lease arrangement rather than a sale, the lease duration to be 99 years, at a lease rental and other terms to be negotiated with the applicant by the Director of Infrastructure and the Director of Legal and Democratic Services, with advice from the Director of Finance;
- (vii) that the approval of this application was conditional on the applicant securing the full funding package required and commissioning the works;
- (vii) to authorise the Director of Legal and Democratic Services to petition the court under Section 75(2) of the Local Government (Scotland) Act 1973 for authority to dispose of by lease the area of common good land covered by this application and conclude formal legal agreements before the transfer formally took place and note that terms and conditions in line with the Council's agreed policy would apply;
- (viii) that, having taken cognisance of the terms of Paragraph 6.3 of the Report, and having previously heard from the Forfar elected members present, and from the Director of Infrastructure as to the current level of funds in the Forfar Common Good Fund, the cost of obtaining court approval be met on a 50:50 basis between the Forfar Common Good Fund and the applicant;
- (ix) to note that in view of the decision at Paragraph (viii) above to seek from the applicant 50% of the legal costs, the applicant could, if they so chose, abandon the CAT

process;

- (x) to note that as the application had been approved with significant amendments, in that the arrangement would be for a lease rather than the sale requested by the applicant and that the applicant would require to contribute to the costs of the court process, the applicant could apply for a review of the decision to the Council's CAT Decision Review Committee and ultimately appeal to Scottish Ministers;
- (xi) to note that officers would report back to this Committee on the outcome of the court process in due course;
- (xii) to note that discussions would take place between the applicant and the Director of Infrastructure regarding shared responsibilities for the access road to the site; and
- (xiii) to note that the applicants had undertaken that the car park would continue to be available to all, and not restricted to users of the planned facilities.

## **7. COMMUNITY ASSET TRANSFER APPLICATION – DECISION – INCH MAINTENANCE AND PRESERVATION SOCIETY (IMPS), FORMER BRECHIN LEISURE CENTRE, RIVER STREET, BRECHIN**

There was submitted Report No 329/19 by the Director of Finance, seeking the Committee's decision on a Community Asset Transfer (CAT) application recently submitted regarding a Council Asset.

The Group had applied for a CAT for the former Brechin Leisure Centre, River Street Brechin, to lease the building which was a General Fund asset on land held on the Brechin Common Good Account for three years but with the stated intention to start an exit strategy after eighteen months. Two objections have been received and the applicant's response to those objections was provided in Appendix 2 to the Report. The aim of the Group was to provide a community resource hub for the people of Brechin, particularly those resident in East Brechin, to meet the needs of all the community, which was truly intergenerational and creating a vibrant, welcoming and inspiring focal point for residents and others.

The Director of Finance gave an overview of the application, and thereafter, the Committee heard Ms Kathy Calderwood of the Inch Maintenance and Preservation Society (IMPS) on behalf of the applicant.

The applicants had a short term lease on the former Brechin Leisure Centre which was located on Common Good Land. If the first CAT was successful it would seek a further CAT. The proposals might provide best value but would have community benefits. The short term lease would prove to be a considerable disadvantage when the necessary costs of court action to sanction the necessary alienation of the property from the Common Good fund was taken into account. The Committee heard that the Group already operated some other successful community facilities. Should the application be unsuccessful, the Council itself would require to go to Court to dispose of the site.

Ms Calderwood explained that the overall aim of the applicants was to create a community centre run by the community for the community. Trustees from user groups would be invited to sit on a Board which would be responsible for taking ownership of the Centre and running it. The kitchen facility would be open to all - to those who could cook and for those who could not, to learn – either for their own benefit or as a trade. The hall could be divided to enable 2-3 different groups to operate at the same time. She noted that currently, poverty levels in East Brechin stood at 20%, and consequently this centre was ideally situated to assist clientele in need – indeed, this had been considered during the charette in Brechin in 2015. There was strong support in the town for this project to succeed. She indicated that the applicant would have to look at the court process costs as an unexpected financial hurdle, given that, in common with the other applicants, she had not been made aware of this until very recently following submission of the application.

In terms of staffing, the project would rely on volunteers for the first year of operation, and thereafter, subject to funding arrangements, would look recruit staff from people currently unemployed.-

The Committee then considered the application. Officers and Ms Calderwood responded to

members' questions.

The Committee agreed:-

- (i) to note the background to Community Asset Transfer (CAT) and the Council's policy and method of assessing applications as set out in Report 105/18;
- (ii) to note the summary information on this CAT application contained in Appendix 1 to the Report;
- (iii) to note the outcome from the assessment process and the views of the Community Asset Transfer Group (CATG) as outlined in Section 4.5 of the Report regarding this application;
- (iv) to note that this application concerned a Council-owned building on a Common Good asset;
- (v) to note the Common Good considerations and consultation arrangements required by legislation and the results from this as set out in Section 5 and Appendix 2 of this Report;
- (vi) having considered the report, to acknowledge the work done by the applicant in preparing this application, and the ambition and aims of the project, while also noting that the application had been assessed as possibly providing best value and that it would provide community benefit;
- (vii) that having heard from the local elected member present (Councillor Myles) and other members who raised concerns, to refuse the application on the basis that the proposed three year lease was too short a period for the project to be viable, given the share of the costs which would be incurred by the applicant by the court process to alienate the Common Good interest and which the applicant's representative had acknowledged, could not be met; and
- (viii) to note that the applicant was entitled to apply for a review of this decision to the Council's CAT Decision Review Committee and ultimately appeal to Scottish Ministers.