

ANGUS COUNCIL

SPECIAL ARRANGEMENTS COMMITTEE – 26 MAY 2020

SURPLUS PROPERTY – LAND AT MARINE AVENUE, MONTROSE

REPORT BY DIRECTOR OF INFRASTRUCTURE

ABSTRACT

The report seeks to declare land at Marine Avenue, Montrose surplus to the requirements of Angus Council and Montrose Common Good and to take forward the sale of the land to Hillcrest Housing Association on terms to be approved by the Director of Infrastructure.

1. RECOMMENDATION

It is recommended that the Committee:

- i) agree to undertaking an 8 week Common Good Consultation on the sale of the triangular parcel of land shown outlined on the plan at **Appendix 1** at Marine Avenue, Montrose
- ii) subject to the results of the Consultation, approves the land be declared surplus to Angus Council and Montrose Common Good and be sold to Hillcrest Housing Association
- iii) subject to agreement by Hillcrest Housing Association on the purchase price and meeting the associated costs, seek a court decision to confirm the Common Good land may be sold.

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

- 2.1 The proposal contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan 2017-2030 and Locality Plans:

ECONOMY

- An inclusive and sustainable economy.
- Attractive employment opportunities
- Angus is a good place to live in, work and visit.

PLACE

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

3. CURRENT POSITION

- 3.1 Hillcrest Housing Association have secured planning permission to develop the former Chapel Works in Montrose to provide 26 affordable housing units behind the existing facade of the building.
- 3.2 The triangular area of land at Marine Avenue is required to provide access to the site and is shown in **Appendix 1**. The land current consists of an adopted footway adjacent to the public road and a triangle of grassed public space, bounded by a cycle path.
- 3.3 The land is held by Montrose Common Good. As the proposed development takes access over the grassed area and thereby requires disposal of the Common Good land to the private developer, the Community Empowerment (Scotland) Act 2015 requires an 8 week Common Good consultation prior to any disposal, in accordance with Section 104 of the Act.

3.4 It is proposed that this consultation is undertaken and subject to the results of the Common Good Consultation, the site be declared surplus.

3.5 It is therefore proposed that:

- If the consultation receives objections to the sale, then a further report is brought back to Committee.
- If there is no unresolved objectives to the sale, then the Director of Infrastructure shall proceed to negotiate the sale in accordance with the Council's Financial Regulations and particularly Regulation 17.2.4. to the Hillcrest Housing Association following an independent valuation by the Council's retained agents.

3.6 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 (Scotland) 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 this case. For the purposes of assessing the financial implications in this report it has been assumed that court approval will be required, Therefore as part of the negotiation in 3.5 Hillcrest Housing Association will be asked to bear the cost of the court process noting that the court may determine that the land cannot be sold.

3.7 In the event that the court rules that the land cannot be sold the land will remain on Montrose Common Good. If court rules that the land can be disposed of the sale will progress under the Director of Infrastructures delegated powers and the sale reported to Committee in due course.

4. FINANCIAL IMPLICATIONS

The potential disposal of the site will generate a capital receipt to the Montrose Common Good and reduce revenue costs. The costs associated with the disposal including the court approval will be met by the purchaser.

5. CONSULTATION

5.1 The Montrose Members have been consulted on the proposal for the disposal of the Common Good land and are all in agreement with the sale subject to the consultation as noted above.

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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List of Appendices:

Appendix 1 – Plan

Plan – Marine Ave, Montrose

PLAN INSERTED

NB: plan is for illustrative purposes only. Final boundaries will be dependent on titles.