

ANGUS COUNCIL

5 NOVEMBER 2020

FORMER LOCHSIDE LEISURE CENTRE – CONSULTATION

REPORT BY DIRECTOR OF INFRASTRUCTURE

**ABSTRACT**

The purpose of this report is to seek Council agreement on the proposed consultation regarding the future of the former Lochside Leisure Centre, Forfar.

**1. RECOMMENDATIONS**

It is recommended that the Council:

- (i) notes that the decision made by Council on Report 48/19 is set aside;
- (ii) agrees the proposed consultation process and detail set out in **Appendix 2**
- (iii) Notes that further reports will be brought to the Council in respect of,
  - (a) The outcome of each phase of the consultation with the public: and
  - (b) options for the future of the former Lochside Leisure Centre

**2. BACKGROUND**

- 2.1 The Council, at its meeting on 7 February 2019 considered a report by the Head of Infrastructure Services in respect of the future of the former Lochside Leisure Centre, Forfar (Report 48/19 refers) and determined that the former leisure centre, shown outlined on the plan at **Appendix 1**, be demolished with the Common Good land lying beneath reinstated to extend the country park.
- 2.2 On 28 February 2019, officers ascertained that a Petition for Judicial Review had been raised in the Court of Session by Mr Mark Guild and Mr Donald Stewart, ( the Petitioners) to challenge the decision the Council made at its meeting on 7 February 2019 to demolish the former Lochside Leisure Centre. Following an Outer House hearing which ruled in favour of the Council, the Petition was successful at appeal to the Inner House of the Court of Session on 5 May 2020 with the decision being published on 19 August 2020.
- 2.3 The Inner House decision sets aside the decision by Angus Council on 7 February 2019 to demolish the former leisure centre and established that the former leisure centre was a Common Good asset rather than an asset of the Council's General Fund (which it had hitherto been accounted for as) . This change in classification of asset ownership is important because it requires the Council to consult under Section 104 of the Community Empowerment (Scotland) Act 2015 on any proposals to dispose of the building or change its use.
- 2.4 In accordance with the Council decision on Exempt Report No 223/20 presented to Council on 10 September 2020, this report sets out the proposed consultation process.

**3. DETAILS**

- 3.1 Section 104 of the Community Empowerment (Scotland) Act 2015 (The Act) requires a local authority, before making a decision to dispose of or change the use of a Common Good property, to:
  - publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property;
  - The details may be published in such a way as the local authority may determine.
  - On publishing details about its proposals under subsection (2), the local authority must—
    - (a) notify the bodies mentioned in subsection (5) of Section 104 of the publication, and
    - (b) invite those bodies to make representations in respect of the proposals.
  - The bodies mentioned in subsection (5) of Section 104 for Angus Council are any community council whose area consists of or includes the area, or part of the area, to

which the property related prior to 16 May 1975, and any community body that is known by the authority to have an interest in the property.

- 3.2 The Inner House of the Court of Session consideration of the former Lochside Leisure Centre case determined that demolition would be a disposal of the property; and the Court also determined that the former centre is a Common Good property, albeit funded from the General Fund and regarded as a general fund asset.
- 3.3 The building was declared surplus to the Council's requirements in Report 151/18 presented to the Policy & Resources Committee on 1 May 2018 as shown in **Appendix 1**.
- 3.4 Consultation under the Act in terms of proposed disposal or proposed change of use implies the Council has determined a view as to whether to dispose or change the use of a building. At this stage, given the impact of the Court decision on the Council's decision on 7 February 2019 this is not the case and the Council has not formalised such a proposal.
- 3.5 In light of the high profile nature of this matter and in order to formalise a proposal for the future of the former leisure centre before progressing directly to a Section 104 consultation, officers are recommending that it is appropriate for the community to have a say in the future use of the centre. A proposal for consultation which would allow this to happen is set out in **Appendix 2**, which has been drafted for Members' consideration and agreement. The details in Appendix 2 follows the "Common good property: statutory guidance for local authorities" published by Scottish Government and notes the timescales required of at least eight weeks for each phase of the consultation to ensure community groups can consider a response. The process has similarities to consultation on our school estate and is recommended on this occasion due to the level of public interest.
- 3.6 Following the Phase 1 informal consultation, a further report will be brought to Council with feedback and to determine an option for the future of the former Lochside Leisure Centre which will form the basis of the formal Section 104 consultation as set out in Appendix 2.
- 3.7 Section 75(2) of the Local Government (Scotland) Act 1973 provides that "where a local authority desire to appropriate or dispose of land forming part of the common good with respect to which land a question arises as to the right of the authority to alienate, they may apply to the Court of Session or the sheriff to authorise them to appropriate or dispose of the land, and the Court or sheriff may, if they think fit, authorise the authority to appropriate or dispose of the land subject to such conditions, if any, as they may impose, and the authority shall be entitled to appropriate or dispose of the land accordingly." This means that any decision to dispose of the former Lochside Leisure Centre (whether by sale, lease or demolition) and, in certain circumstances, to change its use) may require the consent of the Court of Session or the Sheriff Court. This particular aspect is currently being considered by Legal Services and the conclusions will be reported as this matter progresses.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The proposals in this report in terms of the Phase 1 informal consultation incur staff time, advertising costs and room hire which is not budgeted for and will require to be met from the Forfar Common Good Fund Revenue Account. At this stage it is not possible to provide an exact estimate of costs as this will be dependent in part on the level of response to the consultation but an indicative estimate of between £3,000 and £5,000 is considered reasonable. Sufficient funds are available within the Forfar Common Good Fund Revenue Account to meet these costs. Further costs will be incurred as part of Phase 2 of the proposed consultation and an estimate of these will be provided in the further report which will seek approval for that phase.

**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 151/18 Surplus Property Lochside Leisure Centre- Policy & Resources Committee 1 May 2018  
[https://www.angus.gov.uk/media/agenda\\_item\\_no\\_10\\_report\\_no\\_15118\\_surplus\\_property\\_lochside\\_leisure\\_centre](https://www.angus.gov.uk/media/agenda_item_no_10_report_no_15118_surplus_property_lochside_leisure_centre)

- Report 48/19 Lochside Leisure Centre – Angus Council 7 February 2019  
[https://www.angus.gov.uk/media/report\\_no\\_4819\\_additional\\_item\\_lochside\\_leisure\\_centre](https://www.angus.gov.uk/media/report_no_4819_additional_item_lochside_leisure_centre)  
[https://www.angus.gov.uk/media/report\\_no\\_4819\\_additional\\_item\\_lochside\\_leisure\\_centre\\_addendum](https://www.angus.gov.uk/media/report_no_4819_additional_item_lochside_leisure_centre_addendum)
- Common good property: statutory guidance for local authorities published by Scottish Government 23 July 2018 <https://www.gov.scot/publications/community-empowerment-common-good-property-guidance-local-authorities/pages/6/>)

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**List of Appendices:**

Appendix 1: Plan of Lochside Leisure Centre

Appendix 2: Consultation Proposals



## CONSULTATION PROPOSALS

## Phase 1 - Informal Consultation

## Purpose –

- Provide information;
- Listen to, acknowledge and respond to concerns and aspirations;
- Obtain public feedback on alternatives
- To assist the council in deciding which proposal will progress to formal Section 104 of the Community Empowerment (Scotland) Act 2015 consultation

Techniques	What	How	Timescale
Provide factual Information to inform the public consultation	<p>An Information Pack with summary information including:</p> <ul style="list-style-type: none"> <li>• History of building and defects</li> <li>• Interest in building to date</li> <li>• Summary of court cases</li> <li>• Historical asset information such as energy /rates /maintenance</li> </ul> <p>with links to further detailed information on Angus Council's website, including engineering report; previous council reports and court cases</p>	<ul style="list-style-type: none"> <li>• On site notices advising of process and where further details can be found;</li> <li>• Publish on Angus Council's Website;</li> <li>• Publish on Angus Council Social Media feeds;</li> <li>• Invite other social media community groups to share;</li> <li>• Hardcopies available in all council libraries and Forfar Community Campus;</li> <li>• Public drop-in session with displays in Reid Hall</li> <li>• Send (digitally) to all known community organisations in Forfar district</li> </ul>	Complete Information Pack by late November
Present Options for consideration and prioritising	<p>Framework of options for the former Leisure Centre with opportunities, risks and where available outline any financial / affordability considerations:</p> <ul style="list-style-type: none"> <li>• Status Quo;</li> <li>• Sale;</li> <li>• Lease;</li> <li>• Community Asset Transfer;</li> <li>• Demolish;</li> <li>• Other Ideals/Opportunities (from consultees);</li> <li>• Wider options for Forfar Loch</li> </ul>	<p>Options Appraisal style including criteria, risk; and costs, provided as part of the Information Pack distributed by the means detailed above.</p> <p>Digital engagement tools such as Social Pinpoint</p> <p>Supported digital and Non-digital options</p>	Part of Information Pack
Provide means of feedback on Options	<p>Use a facilitated Focus Group formed from community group stakeholders</p> <p>'Drop In' event in Reid Hall, with social distancing.as far as permitted and appropriate within the relevant Covid</p>	Using voting tools such as Survey Monkey with support to residents in the drop-in session or directly through on-line voting	'Drop In' session mid December;  Input open for 8 Weeks (noting Christmas break)

	regulation. Display the information & Options as above. Non-digital feedback.  Digital system to select options or suggest alternatives		Close of selection of options by end of January 2021
Analysis of feedback and report results	Compile record of selection; new opportunities; and feedback comments.  Document the above and make publicly available (as part of Council Report)  Report to Council	Publish responses through same means as Information Pack was distributed above.  Council Report	By mid-March 2021  Target date of 18 March 2021 Council Meeting

## Phase 2 - Formal Consultation

**Purpose** –Formal consultation under Section 104 Community Empowerment (Scotland) Act 2015

Techniques	What	How	Timescale
Publish proposals and invite representation	Publish preferred Council option following report to 18 March 2021 Council meeting	<ul style="list-style-type: none"> <li>On site notices advising of process and where further details can be found;</li> <li>Publish on Angus Council's Website;</li> <li>Publish on Angus Council Social Media feeds;</li> <li>Invite other social media community groups to share;</li> <li>Hardcopies available in All Libraries; Forfar Community Campus;</li> <li>Send (digitally) to all known community organisations in Forfar district</li> </ul>	By end of March 2021 for 8 weeks
Receive, and collate representation	Compile record of representations and feedback comments.  Document the above and make publicly available (as part of Council Report)	Publish responses through same means as above.	End of May 2021
Respond to representations	Respond to any representations received		Within 8 weeks of receipt
Report to Council to confirm or amend proposals.	Report outcome of formal consultation to Council	Report to Council	Earliest date of 24 June 2021 dependant on representation
Publish decision	Publish the decision on the proposal and any changes which will be made	Notify community bodies and anyone who has made a representation	June 2021 onwards
In case of amendment that is materially different from the	Repeat process above	As above	Further 8 weeks consultation, plus reporting

original proposal repeat the above process			
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