

ANGUS COUNCIL

POLICY AND RESOURCES COMMITTEE - 1 FEBRUARY 2022

BRECHIN CITY HALLS – LEASE RENEWAL

REPORT BY THE DIRECTOR OF INFRASTRUCTURE

ABSTRACT

Report No 220/16 established a five-year lease of Brechin City Halls to the Brechin City Hall User Group to operate the Halls for community and commercial use, with financial and non-financial support from Angus Council. The lease is now due for renewal and this report sets out the proposal for a future lease to the Brechin City Hall User Group.

1. RECOMMENDATION

1.1. It is recommended that the Committee:

- (i) agrees, in principle, to lease the Brechin City Halls for a period of 25 years to the Brechin City Hall User Group for the purposes of community and commercial use subject to completion of the consultation and legal process as set out in this report;
- (ii) agrees to the ongoing provision of financial resources on the basis outlined in this report; and
- (iii) commends the Brechin City Hall User Group for their efforts in volunteering and the entrepreneurial spirit.

2. ALIGNMENT TO ANGUS COUNCIL PLAN / COMMUNITY PLAN

2.1 This report contributes as a whole to the Council Plan and the Community Plan:

- make Angus a low-carbon, sustainable area
- support business and economic growth by improving the physical and digital infrastructure
- work collaboratively for and with our citizens to keep them safe in resilient communities
- reduce social isolation and loneliness
- continue to reduce the council's carbon footprint with the aim of reducing our net carbon emissions to zero by 2045
- engage with citizens and communities to deliver the right services in the right place at the right time
- identify any further opportunities for efficiencies in revenue budget
- continue the rationalisation of our property

3. CURRENT POSITION

3.1 Report No 220/16 to Communities Committee on 24 May 2016 agreed a lease of the Brechin City Halls for a period of 5 years from 1 June 2016 to the Brechin City Hall User Group (BCHUG) for the purposes of community and commercial use. The Halls are a Brechin Common Good asset.

3.2 BCHUG have successfully operated the halls for the benefit of the community since 2016. The range of activities are diverse from hosting a wedding, farmers' markets, theatre productions, Tai Chi, films and Saturday dances.

3.3. They were awarded charitable status in March 2018 and received LEADER funding in February 2019.

3.4 BCHUG have undertaken a large number of improvements to the Halls ranging from renovating the changing rooms, to installing LED lighting; and stage curtain mechanism upgrades with their latest project being the conversion of a very limited toilet provision room to provide new modern toilet facilities.

3.5 Like similar venues the halls were closed for a significant portion of 2020 due to Covid19. From June 2021 the five-year BCHUG lease expired and moved onto Tacit Relocation. Tacit Relocation is a Scot's Law principle whereby, where no Notice is served, a lease continues on the same

terms and conditions for a period of 1 year and on a year to year basis until Notice is given. The next opportunity to change the lease and renew is 1 June 2022.

- 3.6 Through Report No 220/16, as part of this agreement, relevant and proportionate, non-financial support and assistance has been made available from Angus Council as well as the transfer of resources outlined in that report.
- 3.7 The financial resources agreed in Report No 220/16 included the sum of £13,000 per annum This amount was based on the average running costs for the council including staff cost waste uplift charges, cleaning etc. Staff support has been provided as has costs of energy and water usage with a cap on these at the level of when the Council operated the venue.
- 3.8 The existing lease pre-dates the introduction in 2018 of the Community Empowerment (Scotland) Act 2015 which introduced the requirement to consult, under Section 104 of the Act, on disposal of Common Good property. A 25-year lease is considered a disposal.

4. PROPOSALS

- 4.1 BCHUG have demonstrated a resilience where other similar venues have struggled. Prior to the Omicron variant of Covid19, activities had resumed with farmers' markets and Saturday dances.
- 4.2 As noted above the lease is due to renew in June 2022 and BCHUG are looking to secure a 25-year lease. As experienced with other community groups, a longer lease enables the community group to pursue external funding as well as giving security to the tenure.
- 4.3 Some of the improvements that BCHUG have undertaken have seen the energy consumption reduced giving savings to the council for their contribution. Future proposals include transferring the responsibility for water rates, further reducing the council's contribution. This is subject to a current water leak being resolved.
- 4.4 There have been no inflationary uplifts in the council's contribution since it commenced including for energy and the BCHUG are content that this continues.
- 4.5 Noting the financial implications in Section 5, and the success of the BCHUG it is recommended that the lease be continued and that BCHUG be granted a new 25-year lease on the same conditions as currently provided with the addition of a 3-yearly review of the financial arrangements and affordability for the Council. The Heads of Terms for the lease are provided in **Appendix 1**.
- 4.6 The Disposal of Land by Local Authorities (Scotland) Regulations 2010 state that a local authority may dispose of land for a consideration less than the best that can reasonably be obtained if the local authority is satisfied that the disposal for that consideration is reasonable; and is likely to contribute to the promotion or improvement of:
 - (a) economic development or regeneration;
 - (b) health;
 - (c) social well-being; or
 - (d) environmental well-being.

In considering whether to grant the lease, Members should consider the statutory duty to secure best value in accordance with these Regulations.

- 4.7 Section 104 of the Community Empowerment (Scotland) Act 2015 came into force on 27 June 2018 and there is therefore now a requirement to consult under the Act on this proposed lease of common good property, before a final decision to enter the lease can be taken. Committee is asked to agree to the proposed lease in principle to allow this consultation and the length of the lease to be consulted upon.
- 4.8 Under the scheme of delegation to officers the Director of Infrastructure has delegation to approve the leasing out of land and property by tender, negotiation or excambion, the granting of wayleaves, servitude rights of access, undertaking rent reviews, lease renewals and the management of dilapidations schedules including all transactions relating to Common Good properties as delegated Standing Orders, and in accordance with, the Council's Financial Regulations. In the event that there are no unresolved negative representations to the consultation, the Director of Infrastructure shall apply this delegation. In the event that the consultation results in unresolved negative responses to the proposal a further report will be brought to Committee.

- 4.9 As experienced with other Common Good assets the question of alienability of the common good property has to be considered. Where a question arises as to the right of the Council to alienate, the Council may apply to the court for authority for disposal. Legal advice and potentially court permission may need to be sought before the lease can be entered into. This would fall within the delegated powers of the Director of Legal and Democratic Services. The timescale for obtaining court consent could take between 6-12 months. In the event that consent was not obtained prior to June 2022, the lease would continue to run on tacit relocation. Committee is asked to agree to the proposed lease to allow this process to be undertaken.
- 4.10 Noting the requirements of 4.7 and 4.9 above in the event that there is a delay to the commencement of the new lease, the property shall continue on tacit renewal for a further period of 12 months.

5. FINANCIAL IMPLICATIONS

- 5.1 Over the 5 years of the lease the council's contribution to the running costs of the building have been the £13,000 p.a. as well as an average annual contribution of just over £4,800 for energy and £1,800 for water i.e. an average annual contribution of £19,600.
- 5.2 In comparison the 6-year average costs of the council operating the facility was cited in Report 220/16 as £34,000, and thus the community group has provided over £86,000 of savings over the last 6 years.
- 5.3 In the event that court approval for the proposed lease is required, then, in accordance with Report No 138/21 - Revised Common Good Fund Policy Guidelines and Administrative Procedures, the expense of going to court to seek approval to dispose of the common good asset will be fully met by the Brechin Common Good Fund.

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 220/16 Brechin City Halls - Volunteer Management - Communities Committee - 24 May 2016
- Report No 138/21 - Revised Common Good Fund Policy Guidelines and Administrative Procedures -13 May 2021

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List of Appendices

Appendix 1 – Heads of Terms of Lease

HEADS OF TERMS OF LEASE

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|---|---|
| Landlord: | Angus Council |
| Tenant: | Brechin City Hall User Group |
| Property to be Leased: | Brechin City Hall |
| Term: | 25 years |
| Break Options: | 3 yearly on serving 3 months' notice |
| Rent: | £1 p.a. if demanded |
| Rent Review | N/A |
| Payment of Rent: | Rent to be paid by Direct Debit on 1st of each month. |
| Council contribution review | 3 yearly |
| Use: | Hall for use by the public for theatrical productions, events, exhibitions, meetings, sports use and functions such as wedding receptions, dances and dinners. |
| Repairs and Maintenance: | The Landlord will be responsible for keeping the property wind and watertight. The Tenant shall be responsible for all other repairs and maintenance, including cleaning, |
| Alterations: consent. | No alterations to property without the landlord's prior written consent. |
| Safety Certificates: | Tenant to be responsible for fixed electrical testing, water testing including legionella testing, gas boiler and soundness testing and provision and testing of fire safety equipment. |
| Insurance (Building): | Landlord |
| Insurance (Contents & Third Party e.g. Public Liability): | Tenant |

Planning: The tenant is responsible for obtaining all appropriate permissions and /or licences, including any planning permission in relation to their use of the subjects.