

ANGUS COUNCIL

POLICY AND RESOURCES COMMITTEE – 30 AUGUST 2022

COMMON GOOD REGISTER

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

This report provides an update on the compilation of, and consultation on, a publicly accessible register of Common Good property assets for the Angus burghs for which the Council inherited Common Good assets. This publicly accessible register and associated consultation are required under Part 8 of the Community Empowerment (Scotland) Act 2015. The report also provides an update on the appointment of a solicitor to undertake the necessary checks in relation to the common good burghs to ensure that a robust list is compiled prior to publication.

1. RECOMMENDATIONS

It is recommended that the Committee: -

- (i) Notes the difficulties in progressing with the consultation on the Common Good Register for Arbroath;
- (ii) Notes the steps now being taken to progress this; and
- (iii) Notes the proposals in relation to the other Burghs.

2. ALIGNMENT TO THE COUNCIL PLAN

This report contributes to the achievement of the priorities in the Angus Council Plan that we want: our communities to be strong, resilient and led by citizens; and Angus Council is efficient and effective; and that we support and equip our citizens to deliver on their local aspirations.

3. BACKGROUND

Report 190/21 considered by the Policy and Resources Committee on 8 June 2021 approved the following recommendations: -

- (i) approves the proposals for the compilation of, and consultation on, a publicly accessible register of Common Good property assets for each burgh, as detailed in this report;
- (ii) approves the publication, by October 2021, of a list of properties which are proposed to be included in the common good register for Arbroath for consultation with the public, local elected members for Arbroath, community councils and community bodies, inviting representations;
- (iii) notes that these timescales are dependent upon Covid-19 restrictions continuing to be eased and staff being able to access the necessary records;
- (iv) delegates authority to the Director of Legal and Democratic Services to consider and respond to all representations, in terms of the legal position, and publish the representations and responses;
- (v) notes that the Director of Legal and Democratic Services will then bring a report to Committee seeking approval to publish the common good register for Arbroath;
- (vi) agrees to follow the same procedure for the other common good burghs in due course;
- (vii) notes that the Director of Legal and Democratic Services will bring a report to Committee seeking approval of a draft list to be consulted on before taking the steps outlined above for each of the other common good burghs;
- (viii) approves funding from the Common Good Funds as set out in Section 6 for the appointment of 1 FTE solicitor for a period of 2 years to undertake work in relation to the other common good burghs to ensure that the proposed list for each burgh is robust prior to publication, as required by statutory guidance;

- (ix) approves the publication, with the list for Arbroath, of a note of any properties which have been considered in relation to the Council's common good estate, but have been legally determined not to form part of the common good of Arbroath, namely Arbroath Library;
- (x) agrees that the Council will undertake a public consultation before any future proposals to sell or lease Arbroath Library.

4. CURRENT POSITION

It has not yet been possible to publish the list of properties proposed to be included in the Common Good Register. There has been a delay in publishing the Arbroath List for consultation due to the Covid pandemic, a reduced capacity within Legal due to significant solicitor turnover which have taken some time to resolve and also as a consequence of challenges faced in recruiting legal staff with the requisite skills to carry out this specialist work.

The legislation requires that when a list is published for consultation, representations can be made to the Council which have to be investigated and responded to within certain timescales. In order for this to happen, it is necessary to ensure not only that the list is sufficiently detailed to ensure that members of the public can identify the asset sufficiently but that the Council is fully satisfied that the asset and its extent are correctly identified as falling within its Common Good. This can involve not only examining historical title deeds but supplementary research of old Minutes and other archived information. This was not possible whilst Covid restrictions were in place. With restrictions now eased and the Archives at Restenneth re-opened, it was then appropriate to recruit to the temporary solicitor post also approved by Committee in June 2021. This solicitor started in post on 4 July 2022 and is hopeful that the 12-week consultation as described below can commence very soon.

5. PROPOSALS

The work already commenced on the Arbroath List, (attached to Report 190/21) will now be progressed as a matter of priority and published in a robust manner as soon as possible but no later than December 2022 and, in accordance with the Scottish Government Guidance which local authorities must have regard to, consult on this for at least 12 weeks with the public, local elected members for Arbroath, community councils and community bodies, inviting representations. The Council requires to consider and respond to all representations and publish the representations and responses. A report will then be brought to Committee seeking approval to publish the Common Good Register for Arbroath. The Guidance states that this should be done as soon as possible and, in any case, within 6 months following the end of the consultation.

To be clear the Council already has a detailed asset register of Common Good assets covering every burgh where Common Good assets were inherited and that has been used for many years for accounting purposes. The work proposed in this report is about undertaking detailed investigations of title deeds and other information to confirm, or otherwise, the accuracy of the existing Common Good asset registers held by the Council.

Similar procedures will be adopted for the four remaining burghs in Angus for which Common Good assets are held

6. FINANCIAL IMPLICATIONS

There are no new financial implications arising directly from the recommendations in this report. Report 190/21 considered by the Policy and Resources Committee on 8 June 2021 comprehensively detailed the costs in terms of officer time. It should be noted that should any property move in or out of the Common Good Register this will have an impact on the Council's accounting treatment for such property in terms of liability for maintenance and receipt of any rent or sale proceeds.

8. EQUALITY IMPACT ASSESSMENT

No new Equality Impact Assessment is required. An Equality Impact Assessment was carried out and attached as Appendix 3 to Report No 190/21.

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 722/12 submitted to Angus Council on 13 December 2012
- Report 400/13 submitted to Angus Council on 20 June 2013 and resubmitted on 12 September 2013
- Report No 506/13 submitted to Angus Council on 12 September 2013
- Report No 315/18 submitted to Policy and Resources Committee on 9 October 2018
- Report No 190/21 submitted to Policy and Resources Committee on 8 June 2021.

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