

ANGUS COUNCIL

POLICY AND RESOURCES COMMITTEE – 3 SEPTEMBER 2024

COMMON GOOD REGISTER - MONTROSE

REPORT BY THE DIRECTOR OF LEGAL, GOVERNANCE AND CHANGE

1. ABSTRACT

This report provides an update on the progress with compiling a publicly available register of Common Good property assets for the former Royal Burgh of Montrose. It also seeks approval for the Council to consult on a draft Register of the relevant Montrose Properties in implementation of section 102 of the Community Empowerment (Scotland) Act 2015 as amplified by Statutory Guidance subsequently issued by the Scottish Government in July 2018. This follows earlier reports on the former burghs of Arbroath, Brechin and Forfar. A separate report to Members sets out the current position on Brechin and Forfar.

2. ALIGNMENT TO THE COUNCIL PLAN AND COUNCIL POLICIES

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. RECOMMENDATION(S)

It is recommended that the Committee:-

- i. Notes and approves the content of the Consultative draft List of Land and Buildings of the Common Good Register for the former burgh of Montrose as detailed in Appendix 1;
- ii. Agrees that the Consultative draft List is publicly consulted upon and duly published as required by the legislation;
- iii. Notes that following completion of the period for consultation and publicity the Director of Legal, Governance and Change will bring a report back to Committee on the representations received and the responses to them and inviting the Committee to approve for publication the final List of Land and Buildings of the Common Good Register for the former burgh of Montrose; and
- iv. Notes progress with the compilation of, and consultation on, a publicly accessible register of Common Good property assets for the remaining Angus burghs of Brechin, Forfar and Kirriemuir along with Monifieth and Carnoustie.

4. BACKGROUND

Report 190/21 considered by the Policy and Resources Committee on 8 June 2021 approved inter alia 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. Delegates authority to the Director of Legal and Democratic Services, or her nominated representative, to consider and respond to all representations, in terms of the legal position, and publish the representations and responses;
- lii. 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 Forfar;
- iv. Agrees to follow the same procedure for the other Common Good burghs in due course;

- v. 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;

The report before members today is the next stage in this matter in relation to the Common Good Register for the former burgh of Montrose.

5. CURRENT POSITION

- 5.1 Prior to the Community Empowerment (Scotland) Act 2015 coming into effect on 27 June 2018 the Council already had its own detailed asset register of Common Good assets covering relevant burghs holding Common Good assets. That register formed the basis for specific separately required identification of Common Good assets and has been used by the Council for many years as a basis for accounting purposes. The work undertaken and being undertaken to comply with current legislation has involved detailed investigation not only of historic title deeds but also related supporting documents such as the Burgh Charters and other information held in historic Council Minutes and Archives, and operational processes to confirm the continuing accuracy of the existing Common Good asset registers held by the Council, to adjust or update the registers as necessary and to take account of the publication and recording requirements of the current legislation. Draft lists for Arbroath, Brechin and Forfar have previously been considered by Committee. Members are aware that Arbroath's list has now been adopted. Brechin and Forfar's draft lists have now been through the 12-week statutory consultation process and are the subject of another report before Members today asking them to adopt and publish both lists..
- 5.2 This report now seeks Committee approval to go out to consult on the draft list for the former Royal Burgh of Montrose. As with Arbroath, Brechin, and Forfar, the draft List for Montrose updates, develops and expands upon the working Register List which has formed the basis for the Council's acting with its Common Good assets for a considerable number of years.
- 5.3 The existing Register for Kirriemuir contains only one Common Good property and there are no existing Registers for either Carnoustie or Monifieth. The title deeds held for the former burghs of Kirriemuir, Carnoustie and Monifieth will be checked to ensure that the review currently being progressed is accurate, complete and robust.

6. STATUTORY CONSULTATION

- 6.1 If approved by Committee, the updated list of Common Good land and buildings for Montrose attached at Appendix 1 will be published for a period of twelve weeks for public comment. Additionally, formal Notice and the accompanying Consultative draft List will be available online on Engage Angus (the Council's consultation platform) and on the Tellmesotland government website, as well as being available in paper form during normal opening hours at Montrose Access Office and Montrose Library, which is itself included in the draft List.
- 6.2 Following publication of the List, local elected members for Montrose, Montrose Community Council, the neighbouring Ferryden and Craig Community Council whose area includes Rossie Island/Inchbraoch and the south side of the Montrose Basin inlet, and Hillside, Dun and Logie Community Council whose area adjoins the Forties Road Industrial Estate and relevant Community bodies will all be contacted and given the opportunity to comment on the draft List and lodge any representations if desired.
- 6.3 In accordance with the approach taken for Arbroath, Brechin and Forfar lists, and as explained in Report No. 190/21 the published Consultation List includes any properties previously included in the existing Common Good asset registers which no longer, or following investigations undertaken have been determined not to, form part of the Common Good. These will be marked as such. This is to allow for full transparency. Members are asked to note that the draft consultation list also includes properties which have been included on other accounts but should be held on the Common Good Fund.

7. PROPOSALS

Subject to the approval sought by this report, the Consultative draft List will be published in a robust manner as soon as possible and, in accordance with Scottish Government Statutory Guidance to which local authorities must have regard, consult on it for at least 12 weeks with the public and local elected members for Montrose, Montrose Community Council, Ferryden and Craig Community Council and Hillside, Dun and Logie Community Council and local community bodies, inviting representations. The Council then requires to consider and respond to all representations received. The Council must publish the representations and its responses to

them. A report will be brought to Committee detailing any adjustments to the Register occasioned by the consultation and seeking approval to publish the Common good register for Montrose in its final form. The Guidance requires that this should be done as soon as practicable and in any case within six months of the end of the consultation.

8. FINANCIAL IMPLICATIONS

There are no new financial implications arising from the recommendations in this report. Report 190/21 considered by the Policy and Resources Committee on 8 June 2021, as extended by Report 127/24, comprehensively detailed the costs in terms of officer time.

Appendix 1 notes some properties that previously formed part of Montrose Common Good that have been sold or otherwise removed from Montrose Common Good but does not propose the transfer of any further properties from Montrose Common Good.

Appendix 1 does though propose the transfer of 4 properties currently held on the General Fund to Montrose Common Good. If ultimately approved following the consultation, Montrose Common Good would become liable for the running costs associated with these properties but would also receive any proceeds from the lease or sale of these properties.

3 of the properties proposed for transfer are occupied by ANGUSalife for the provision of services as stipulated by the Council. If the transfer of these properties to Montrose Common Good is ultimately approved, there would be a rental to be paid to Montrose Common Good for their continued use. This would require to be included in the review of the management fee level during the 2025/26 budget setting process.

Following the conclusion of the consultation period, any property moves in or out of Montrose Common Good 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. A further report will be brought back to committee after the conclusion of the consultation period and this will include the financial implications associated with the final position.

9. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY

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

10. CONSULTATION

The Director of Finance has been consulted on the proposals contained in this report.

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 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.
- Report No. 222/22 submitted to Policy and Resources Committee on 30 August 2022
- Report No.127/24 submitted to Policy and Resources Committee on 30 April 2024
- Report No. 247/24 submitted to Policy and Resources Committee on 3 September 2024

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List of Appendices:

Appendix 1 Consultative draft list for Common Good Register for the former Burgh of Montrose