



REPORT TO: POLICY & RESOURCES COMMITTEE ON 9 APRIL 2019

SUBJECT: TRUST PROPERTY – 3 LOGIE COTTAGES, FORRES

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report invites the Committee to consider the future of 3 Logie Cottages, Forres, which is a dwelling house held under a Public Trust.
- 1.2 This report is submitted to Committee in terms of section III (B) (16) of the Council's Scheme of Administration relating to the management of Common Good and Trust property.

2. RECOMMENDATION

2.1 The Committee is invited to agree to instruct:

- (i) **the Estates Manager to sell the subjects at 3 Logie Cottages, Forres, on the open market, bringing the trust to an end; and,**
- (ii) **the Head of Legal and Democratic Services to bring a report back to this Committee with suitable alternative options for the Trustees to agree the distribution of the proceeds of sale in accordance with the terms of the trust.**

3. BACKGROUND

- 3.1 The dwelling house at 3 Logie Cottages, Forres, is held under a Public Trust, the purposes of which are for the dwelling house to be held as a '[rent] free home or house of rest' to be occupied by 'such respectable retired couple or widow with small family or a single woman, whether widow or single, in indigent circumstances'.
- 3.2 The dwelling house is now vacant following the death of the most recent beneficiary. In 2013, the Council agreed to provide the trust with a loan of £10,227.56 (excluding VAT) from the Housing Revenue Account to cover the costs of essential repairs. This loan falls to be repaid upon the eventual sale of the property. The trust is now frustrated, i.e. it can no longer continue, as

there are insufficient funds to pay for the property running costs (repairs, maintenance, servicing, etc.) for another beneficiary.

- 3.3 The trust deed gives power to the Trustees to sell the property, with the remainder of the proceeds of sale to be applied for the benefit of the 'poor in Forres'. Under the terms of the trust, the Trustees have absolute discretion in relation to the distribution of the remainder of the proceeds of sale. The elected Members of Moray Council are the Trustees, with decision-making related to trust property delegated to this Committee.
- 3.4 The trust would cease on the disposal of the dwelling house. It would then be for the Trustees to determine how the proceeds of sale would be distributed after repayment of the outstanding loan. A further report to this Committee will be required identifying suitable options for the distribution of funds.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

As the property is a Public Trust asset, the trust purposes take precedence over the Council's Corporate Plan and 10 Year Plan (LOIP).

(b) Policy and Legal

Under section 4 of the Trusts (Scotland) Act 1921, trustees have wide-ranging powers. Those include selling trust estate and granting leases provided that such acts are not at variance with the terms or purposes of the trust.

(c) Financial Implications

The financial implications are set out in the body of the report.

(d) Risk Implications

There is a risk that the condition of the property will deteriorate in the event of there being a delay in putting the property on the market leading to a possible reduction in the likely sale price.

(e) Staffing Implications

Whilst all work involved can be accommodated within existing staffing resources, current pressures within the Estates Service are likely to lead to delays in implementation.

(f) Property

The property implications are set out in the body of the report.

(g) Equalities/Socio Economic Impact

An Equalities Impact Assessment will be required in relation to the distribution of the net proceeds of sale.

(h) Consultations

The Head of Legal and Democratic Services, Acting Head of Housing and Property, Legal Services Manager, E Gutcher, Solicitor, P Connor Principal Accountant, Estates Manager, Democratic Services Manager and Equal Opportunities Officer have been consulted and all comments incorporated in the report.

Local Ward Members (Councillors Alexander, Creswell, Feaver, and McLean) have been consulted and may make their views known at Committee.

5. CONCLUSION

- 5.1 The house at 3 Logie Cottages, Forres, is vacant following the death of the previous trust beneficiary and there are insufficient funds to meet the costs of a new beneficiary, leading to the frustration of the trust.**
- 5.2 During the tenancy of the previous beneficiary, the Council provided the trust with a loan of £10,227.56 (ex VAT) to cover the cost of essential repairs. This loan falls to be repaid upon the sale of the property.**
- 5.3 The trust deed gives power to the Trustees to sell the property, with any proceeds to be applied for the benefit of the 'poor in Forres'. Whilst the Trustees have absolute discretion in relation to the distribution of the proceeds of sale under the terms of the trust, a further report will be required bringing forward suitable options for consideration.**

Author of Report: Andrew Gray, Asset Management Coordinator
Background Papers: Held by author
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