



REPORT TO: MORAY COUNCIL ON 15 SEPTEMBER 2021

SUBJECT: FORRES COMMON GOOD – TRANSITION TOWN FORRES

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1 REASON FOR REPORT

- 1.1 This report invites the Council to consider an application from Transition Town Forres to the Forres Common Good Fund for financial assistance.
- 1.2 This report is submitted to Council in terms of Section III (B) (16) of the Council's Scheme of Administration relating to the management of Common Good Funds.

2. RECOMMENDATION

- 2.1 The Council is invited to consider and agree whether to approve an application from Transition Town Forres for a grant of £8,000 from the Forres Common Good Fund.**

3. BACKGROUND

- 3.1 Decisions relating to Common Good Funds are delegated to the Chief Financial Officer in consultation with local Members. If agreement of at least two-thirds of local Members cannot be reached in relation to a funding application then the application is brought to committee or Council for determination.
- 3.2 Transition Town Forres Ltd (the company) was incorporated on 24 July 2008 and is a registered Scottish Charity (SC040314) with the following objects:
- a) the advancement of community development,
 - b) the advancement of environmental protection and improvement, including the promotion of sustainable development,
 - c) the advancement of education, and
 - d) the promotion of health.
- 3.3 The company leases a Council-owned site at Bogton Road, Forres, for the purpose of furthering its charitable objective of reducing the community's carbon footprint.
- 3.4 The Bogton Road site is held on an inalienable Common Good title. The company's lease runs for a period of 30 years from 31 March 2009. The

company paid a one-off sum of £40,000 at entry and agreed to carry out improvement works to the property in exchange for no rent being payable until the first rent review on 31 March 2020. The rent payable after this review was agreed at £13,200 per annum (excluding VAT). The Council has an option to resume possession of the site on serving twelve months' notice at any time after 31 March 2020 on the tenant.

- 3.5 On 15 June 2020, the company lodged an Expression of Interest in a free transfer of ownership of the site under the Community Asset Transfer (CAT) Scheme. Although the company was ineligible at that time, it has since amended its Articles of Association to meet the scheme eligibility requirements. It has now indicated that it would be willing, subject to funding being approved by the Scottish Land Fund, to purchase the site at a percentage of its market value.
- 3.6 In August 2020, the company applied for a grant of £15,840 from the Forres Common Good Fund to cover the full rent payable for the site of £13,200, together with VAT thereon of £2,640, all in respect of the period 31 March 2020 to 30 March 2021. The four Forres Ward Members approved that application in order to allow the then "new board" time to prepare a business plan demonstrating that the company could pay future rent.
- 3.7 On 22 February 2021, the company again applied to the Common Good for financial support to cover the rent payable for a further year to 30 March 2022. At a meeting of the Council on 30 June 2021, the Council agreed to defer a decision on that application for 3 months to allow all concerned to find a way forward for the organisation with a report to come back to the Council for consideration (paragraph 21 of the draft Minute refers).
- 3.8 The company has since reviewed its proposals and reduced the amount for which it is currently applying from £15,840 to £8,000. It has confirmed that it intends applying under the CAT Scheme for a transfer of ownership of the site as soon as the Scottish Charities Regulator has approved its amended Articles. A report on the proposed asset transfer request would be brought to a future meeting of the relevant Council committee following completion of a statutory consultation process. If the request were to be successful, it would be prudent to assume a minimum period of one year from its submission to undertake the statutory process, obtain the necessary court consent and complete the transfer of the asset.
- 3.9 An examination of the company's published accounts indicates successive losses for the three financial years 2017/18, 2018/19 and 2019/20. However, a significant element of the loss in each year related to depreciation of assets, which have now been fully depreciated. The accounts for 2020/21 have not yet been published.
- 3.10 An assessment of company's financial sustainability and its future business plans would form a key feature of the CAT process.

4. SUMMARY OF IMPLICATIONS

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

Where a property is held on a Common Good title, the interests of the inhabitants of the former burgh take precedence over the Council's Corporate Plan and 10 Year Plan.

(b) Policy and Legal

On 16 January 2002, the Policy and Resources Committee agreed to continue the policy of distributing two-thirds of the estimated annual disposable income available to the Common Good Funds (paragraph 22 of the Minute refers). The remaining one-third is to be re-invested to ensure the funds' sustainability for the benefit of future generations. In administering Common Good assets, the Council is required by section 15(4) of the Local Government etc. (Scotland) Act 1994 to have regard to the interests of the inhabitants of the area to which the Common Good related prior to 16 May 1975.

(c) Financial Implications

The sum of £25,936 is available from the Forres Common Good Fund for disbursement during the 2021/22 financial year. This figure includes two-thirds of the rental due by the company, amounting to £8,800. To date £5,080 has been committed, leaving a balance of £20,856 available for disbursement.

If an £8,000 grant is approved then the company will be required to meet the remainder of the rental balance due of £5,200 and the full VAT payable of £2,640 for the period to 30 March 2022, together with the whole of the rent due thereafter.

The rent of £13,200 per annum payable by the company is considered a fair rent taking into account the option to resume possession and the use being restricted to the company's non-profit charitable objectives of limiting the community's carbon footprint, including a community garden together with community and educational purposes. However, the market rental is estimated at £18,800 per annum if the site were to be let without the annual break and restricted use.

(d) Risk Implications

Following the restrictions brought about by the pandemic, it is unlikely that the company will have been able to generate levels of income from its charitable activities during its 2020/21 financial year comparable with that generated in previous years. Although the company has plans to increase income generated, there is a risk that it might fail to generate sufficient income to cover the whole of the annual rent due.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

The property implications are as detailed in this report.

(g) Equalities/Socio Economic Impact

An Equalities Impact Assessment is not required as agreeing to or refusing the request would have no impact on service delivery.

(h) Consultations

The Depute Chief Executive (Economy, Environment and Finance), Chief Financial Officer, Legal Services Manager, Estates Manager, T. Sutherland Committee Services Officer, and Equal Opportunities Officer have been consulted and comments incorporated in the report.

The Forres Ward Members, Councillors Alexander, Creswell, Feaver and A. McLean, have been consulted and may make their views known at the Council meeting.

5. CONCLUSION

- 5.1 The Council is invited to consider an application to the Forres Common Good Fund from Transition Town Forres for a grant of £8,000 towards the cost of the £13,200 (ex. VAT) annual rent due in respect of the year from 31 March 2021 to 30 March 2022.**

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