

PERTH AND KINROSS COUNCIL**Environment Committee****22 January 2014****ABERFELDY CARAVAN PARK COMMON GOOD FUND PAYMENT****Report by Depute Director (Environment)**

This report notes that Aberfeldy Caravan Park site is not regarded as part of the Common Good of Aberfeldy. The report recommends that the Council should not continue to make an annual payment of £4,500 to the Aberfeldy Common Good Fund.

1. BACKGROUND/ MAIN ISSUES

- 1.1 At the Environment Committee on 07 November 2012 the Review of Aberfeldy Caravan Park report (Report No. 12/516) was approved. It was agreed to advertise the Aberfeldy Caravan Park for lease on the open market, but if a suitable lease could not be arranged, management of the site would remain with the Council.
- 1.2 As part of the review, the report set out the history and use of the site and whether the land occupied by the caravan site is a Common Good asset.
- 1.3 Land and buildings are presumed to form part of the common good if they were held by a former burgh unless they form part of a trust or were acquired for a statutory purpose. As part of its ongoing review of common good assets, Legal Services examined the title deeds and the former burgh records relating to the Aberfeldy Caravan Park.
- 1.4 The site for Aberfeldy Caravan Park is part of an area of land originally acquired for use by the former Burgh Council for the provision of a sewage treatment plant, therefore this acquisition was for a statutory purpose. Part of this land was converted to form the Caravan Park in the 1950s.
- 1.5 Following the review of the evidence in relation to Aberfeldy Caravan Park, the Head of Legal Services is of the opinion that the land occupied by the caravan site is not a common good asset.
- 1.6 Some members of the local community held the view that the Caravan Park was common good land but, at a meeting on 28 August 2013 regarding the leasing of Aberfeldy Caravan Park, the Chair of Aberfeldy Community Council advised the meeting that he and a colleague had carried out extensive research into the history of the site before it was converted into a Caravan Park but had been unable to find evidence that it had been used for any

purposes which might indicate that it was common good land. The Chair subsequently confirmed that he was now certain that the site could not be regarded as common good land.

- 1.7 Over the years, payments to the Common Good Fund from the caravan park have amounted to approximately £67,500. However, as the site is now recognised as not being common good land, the Common Good Fund is not entitled to receive an income from it.

2. PROPOSALS

- 2.1 As a result of the above, it is therefore proposed that the current payment of £4,500 per annum into the Aberfeldy Common Good Fund from Aberfeldy Caravan Park should cease.
- 2.2 The last payment made to the Aberfeldy Common Good Fund from Aberfeldy Caravan Park was in financial year 2012/13. A sum of £4,500 has been budgeted for by the Council for 2013/14. However given the information presented above, it would be inappropriate for the Council to provide this funding to the Common Good Fund.
- 2.3 Previous payments to the Aberfeldy Common Good Fund go back as far as 1977 and were made at a time when the understanding of common good law was less developed than it is now. This was reflected in the implementation of decisions of predecessor authorities in terms of payments to the Common Good Fund. It is therefore proposed that payments already made to the Aberfeldy Common Good Fund, outlined in paragraph 1.7 above should not be recovered.
- 2.4 It is further proposed that this report be referred to the Aberfeldy Common Good Fund Committee for noting.

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 Over the years, funding has been paid into the Aberfeldy Common Good Fund from Aberfeldy Caravan Park.
- 3.2 As the land on which Aberfeldy Caravan Park currently sits was acquired for a statutory purpose (for the provision of a sewage treatment plant) the site is not a Common Good asset. Therefore, the Council should not continue to pay money into a Common Good Fund for a property which is not a common good asset.
- 3.4 it is recommended that the Committee agree:
 - (i) to cease paying the Aberfeldy Common Good Fund £4,500 per annum from the Aberfeldy Caravan Park budget.
 - (ii) that the cessation commences from financial year 2013/14.

- (iii) that Aberfeldy Caravan Park payments, previously made to the Aberfeldy Common Good Fund, are not reclaimed.
- (iv) that the report be referred to the Aberfeldy Common Good Committee for noting.

Author(s)

Name	Designation	Contact Details
Bruce Reekie	Waste Services and Community Greenspace Manager	Ext 76448, BReekie@pkc.gov.uk

Approved

Name	Designation	Signature
Barbara Renton	Depute Director (Environment)	14 January 2014

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

The undernoted table should be completed for all reports. Where the answer is 'yes', the relevant section(s) should also be completed

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	Yes
Financial	Yes
Workforce	None
Asset Management (land, property, IST)	Yes
Assessments	Yes
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	Yes
Legal and Governance	Yes
Risk	Yes
Consultation	Yes
Internal	Yes
External	None
Communication	Yes
Communications Plan	None

1. Strategic Implications

Community Plan / Single Outcome Agreement

- 1.1 The proposals contribute to priority (v) in relation to the delivery of the Perth and Kinross Community Plan / Single Outcome Agreement:

- (i) Giving every child the best start in life
- (ii) Developing educated, responsible and informed citizens
- (iii) Promoting a prosperous, inclusive and sustainable economy
- (iv) Supporting people to lead independent, healthy and active lives
- (v) Creating a safe and sustainable place for future generations

Corporate Plan

- 1.2 The proposals contribute to priority (v) in relation to the delivery of the Council's Corporate Plan Priorities:

- (i) Giving every child the best start in life;
- (ii) Developing educated, responsible and informed citizens;
- (iii) Promoting a prosperous, inclusive and sustainable economy;
- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

2. Resource Implications

Financial

- 2.1 The Head of Finance has been consulted and agrees with the proposals.

Workforce

- 2.2 The proposals in this report have no workforce implications for the Council.

Asset Management (land, property, IT)

- 2.3 The proposals in this report have no direct land and property implications.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- Assessed as **not relevant**.

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.3 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.

The proposals have been assessed in terms of the requirements to manage the Council's assets in a sustainable long term way. The caravan park will continue to operate; if a suitable lease cannot be arranged, management of the site will remain with the Council.

Legal and Governance

- 3.4 The Head of Legal Services has been consulted.

Risk

- 3.5 There are no risks to the Council arising from this proposal.

4. Consultation

Internal

- 4.1 The local elected members have been consulted in the preparation of this report.

The Heads of Legal Services, Democratic Services and Finance have been consulted in the preparation of this report.

External

- 4.2 Aberfeldy Community Council were consulted in the preparation of this report.

5. Communication

- 5.1 The Local Elected Members and Local Community Council have been communicated with in relation to the report proposals.

6. BACKGROUND PAPERS

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above Report;

- Report to the Leisure & Recreation Committee on 06 April 1988 entitled Aberfeldy Caravan Site – Proposed Upgrading (Report No: 88/282)
- Report to the Environmental and Consumer Services Committee on 08 May 2002 entitled Aberfeldy Caravan Park Best Value Review – Options Appraisal (Report No: 02/298)
- Report to the Aberfeldy Common Good Fund Committee on 17 July 2002 entitled Aberfeldy Caravan Park (Report No: (02/479)
- Report to the Environment Committee on 07 November 2012 entitled Review of Aberfeldy Caravan Park (Report No: 12/516)