

PERTH AND KINROSS COUNCIL

Property Sub-Committee

14 June 2021

CLASS 3 BUSINESS OPPORTUNITY AT RIE-ACHAN ROAD, CAR PARK, PITLOCHRY

**Report by Executive Director (Communities)
(Report No. 21/92)**

This report seeks approval market a site for lease within the Council controlled car park at Rie-Achan Road, Pitlochry for a Class 3 Business use. This follows the decision of the Planning & Development Management Committee on 7 April 2021 (report 20/01967/FLL refers) to grant planning consent.

1. BACKGROUND / MAIN ISSUES

- 1.1 The Rie-Achan Rd car park in Pitlochry is a Council controlled car park which currently provides 78 income generating spaces, 12 electrical vehicle charging points, 2 disabled bays, 5 bus and 11 coach spaces, immediately adjacent to Pitlochry Railway Station (see Appendix 1).
- 1.2 In summer 2020, the Council was approached by a businessman seeking to site decommissioned and refurbished railway carriages on the Rie-Achan Road car park to establish a new restaurant.
- 1.3 A planning application for a change of use of part of the car park for a restaurant use was submitted in late December 2020 (see Appendix 2). The Planning & Development Management Committee considered the application on 7 April 2021 and voted to set aside the officer recommendation to refuse planning permission by a majority of 7 to 5.
- 1.4 The Planning & Development Management Committee decision was subject to a legal Agreement being concluded with the applicant to secure a contribution to replacement parking elsewhere in the town and compensation for the loss of spaces at Ria-Achan Road car park.
- 1.5 The car park has not previously been identified for disposal and has therefore never been marketed. In 2018, the Council allocated £150,000 in its Capital Programme to increase car park provision in the town. A parking survey was scheduled to be undertaken over the summer of 2020 to determine use patterns and pressures. However, this was not possible due to COVID which clearly restricted the normal operation of most businesses across the country and significantly impacted on tourism. The survey work is now scheduled to be undertaken by the Council by the end of Quarter 2 in 2022.
- 1.6 Whilst the Council acting as Planning Authority rightly focussed on the benefits of a change of use, as the relevant landowner, the Council now has wider obligations to consider. The compensation payable to the Council as Planning Authority, to address the impact of the proposed development on the

number of available parking spaces (a reduction of 12) , will be negotiated separately to any sum payable to the Council as landowner.

- 1.7 In addition to payment of a commercial rent, compensation will also be payable to the Council as landowner in respect of loss of car park income, the full cost of necessary works to accommodate the development and the cost of reinstatement at the end of the lease, or earlier in the event of default.

2. PROPOSAL

- 2.1 The proposed use of the site will require:

- a formal ground lease to be agreed on commercial terms;
- compensation for the loss of income (until the spaces are replaced elsewhere);
- a financial deposit or bond to cover any re-instatement to the land upon termination or default of lease agreement; and
- payment to cover the cost of all necessary accommodation works.

- 2.2 Of these costs, the most significant sum relates to the necessary accommodation works. These are works which officers have assessed as being essential to the continued safe operation of the car park.

- 2.3 The detailed design and costing requires to be undertaken, however, it is estimated the cost will be in the order of £80,000. It is anticipated the works required by the Council will include:

- a new vehicular egress on to Rie-Achan Road;
- the re-siting of the 2 existing EV charging points;
- the formation of an alternative disabled parking bay;
- removal and relocation of existing landscape, lighting column and re-surfacing;
- the formation of a 2m buffer around the front of the 2 carriages; and
- new signage.

- 2.4 As these works are a direct consequence of the restaurant proposal, it is only proper that the full cost is borne by the restaurant operator notwithstanding a potentially significant impact on the viability of any Class 3 (restaurant, café, snack bar) proposal.

- 2.5 It should be noted that the cost of the accommodation works may mean that planning permission is not required as the Council has some permitted development rights as Roads Authority. However, given a potential impact on adjacent residents, consultation will be undertaken to allow their views to be fully considered.

3. BEST VALUE AND DISPOSAL OF LAND REGULATIONS

- 3.1 The Council is required to fulfil its statutory duties under Best Value, as set out in Section 1 of the Local Government in Scotland Act 2003. Relevant aspects of this duty include:

- Making best use of public resources, including land and property;
- Being open and transparent in transactions;
- Ensuring sound financial controls are in place to minimise the risk of fraud and error;
- Assessing the full financial consequences of decisions at an appropriate level before major financial decisions are taken or commitments entered; and
- Demonstrating responsiveness to the needs of communities, citizens, customers, and other stakeholders, where relevant.

3.2 The Council is also required to comply with Section 74 of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010 as they relate to the duty to obtain best reasonable consideration when disposing of land and buildings. Officers believe this duty is most appropriately fulfilled by undertaking an appropriate open marketing campaign for the lease of the identified site, in which the extent and probable costs of the accommodation works would be provided to prospective tenants. Members should be aware that since the meeting of the Planning & Development Committee two additional expressions of interest in leasing this specific site have been received.

4. CONCLUSION AND RECOMMENDATIONS

4.1 The potential Class 3 business use of the site presents an interesting opportunity for the Council to consider. Whilst planning permission has been granted, there are a number of other financial, equity, governance and best value matters which the Council as the landowner must also take account of.

4.2 The Committee is therefore asked to consider marketing the site, as delineated in the planning application, as an opportunity for lease for Class 3 use (restaurant, café, snack bar) subject to the following:

- i) a lease on commercial terms is offered for a period of 10 years initially;
- ii) the lease is offered on the basis that the full cost of safely accommodating the change of use, and reinstating the site when the use ceases, is met by the tenant;
- iii) compensation equal to the income generated by the spaces is payable by the tenant until such times as the spaces are replaced elsewhere; and
- iv) all relevant bids will be submitted to the Committee for consideration and determination.

Authors

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Approved

| Name | Designation | Date |
|----------------|----------------------------------|-------------|
| Barbara Renton | Executive Director (Communities) | 4 June 2021 |

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

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

1. Strategic Implications

Community Plan/ Single Outcome Agreement

- 1.1 The Perth and Kinross Community Planning Partnership (CPP) brings together organisations to plan and deliver services for the people of Perth and Kinross. Together the CPP has developed the Perth and Kinross Community Plan which outlines the key things we think are important for Perth and Kinross:

- (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 the future

- 1.2 It is considered that the actions contained within this report contribute to objective (iii) and (v).

Corporate Plan

- 1.3 The Council's Corporate Plan 2018-2022 outlines the same five Objectives as those detailed above in the Community Plan. These objectives provide a clear strategic direction, inform decisions at a corporate and service level and shape resource allocation. It is considered that the actions contained in the report contribute to objective (iii) and (v) outlined in paragraph 1.1.

2. Resource Implications

Financial

- 2.1 It is intended that the project will proceed at no net loss to the Council with compensation for the loss of car parking income and capital expenditure required to facilitate the proposal being demanded. The loss of revenue compensation would be paid into the Car Park Trading account and the rental of the site to the General fund account. The capital compensation received for the creation of alternatives spaces would be used to reimburse the Council's capital account for accommodation works undertaken and the re-instatement bond held in the Council's separate suspensive account.

Revenue

- 2.2 There will be an income from this project by way of an annual ground rent. Rates may be receivable for the site in due course when fully assessed for the occupation and use of the site.

Asset Management (land, property, IT)

- 2.3 The proposed project could achieve the objective of facilitating new business and private investment on the Council owned site.

3. Assessments

- 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 This section should reflect that the proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

- (i) Assessed as **not relevant** for the purposes of EqIA

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.
- 3.4 This section should reflect that the proposals have been considered under the Act and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Legal and Governance

- 3.5 The Head of Legal and Governance has been consulted on the issues contained in this report.

4. Consultation

Internal

- 4.1 The Head of Legal and Governance has been consulted on the contents of this report.

External

- 4.2 No formal external consultation.

2. BACKGROUND PAPERS

- 2.1 No background papers as defined by section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

3. APPENDICES

- 3.1 Appendix 1 – Location Plan Rie-Achan Road Car Park, Pitlochry
- 3.2 Appendix 2 – Site of Planning Application at Ria-Achan Road (20/01967/FLL)