

**REPORT TO:** DUNDEE CITY COUNCIL - 10TH JUNE, 2013

**REPORT ON:** PROPOSED APPLICATION FOR AMENDMENT OR PARTIAL REPEAL OF THE CITY OF DUNDEE DISTRICT COUNCIL ORDER CONFIRMATION ACT 1990

**REPORT BY:** HEAD OF DEMOCRATIC AND LEGAL SERVICES

**REPORT NO:** 257-2013

## **1.0 PURPOSE OF REPORT**

- 1.1 To approve the promotion of private legislation in the Scottish Parliament to amend or partially repeal The City of Dundee District Council Order Confirmation Act 1990 in so far as it relates to Belmont Estate, to enable funds to be released that could finance a project that would benefit the community of the City of Dundee.

## **2.0 RECOMMENDATION**

- 2.1 It is recommended that the Council approve an application to the Scottish Parliament to amend or partially repeal the Confirmation Act so as to permit the Belmont Estate to be sold or otherwise disposed of in accordance with an appropriate disposal strategy, and the proceeds used to benefit the community of the City of Dundee. This is in accordance with the original uses and purposes of the bequest which stated that "the subjects shall be utilised for the benefit of the community of the City of Dundee".

## **3.0 FINANCIAL IMPLICATIONS**

- 3.1 The Council will require to bear the legal expenses of the legislation which may cost up to an estimated £30,000.
- 3.2 The Council would thereafter be in a position, should it so wish, to place Belmont Estate on the open market in accordance with an appropriate disposal strategy. An independent valuation of the Estate has been carried out in 2010 which suggests that a significant capital receipt/receipts may be realised dependent upon market conditions at the time of marketing. Any capital receipt(s) have the potential to increase subject to planning permission being granted for development of parts of the undeveloped land within the Estate.
- 3.3. The Council, if the Belmont Estate were sold, would make annual revenue savings of approximately £10,000.

## **4.0 MAIN TEXT**

- 4.1 The City of Dundee District Council Order Confirmation Act 1990 followed on from the Dundee Corporation Consolidated Powers Order 1957. The purpose of the 1990 Act was similar to the 1957 Order which was to control the use of both Belmont Estate and other Council lands.
- 4.2 In addition, the 1990 Act provided the Council with clear legal grounds for utilising the Council's insurance fund.
- 4.3 It is the intention to allow the parts of the Confirmation Act which pertain to non-Belmont land and the Council's Insurance fund to remain in place. The amendment will relate solely to Belmont Estate.

- 4.4 Belmont Estate was gifted to the Council in 1918 by Mrs Emma Marryat, sister of Sir James Caird. At that time the purpose of the gift was two-fold; it was to allow the Castle to be used as a rest home for those injured in the Great War and otherwise was generally to be utilised for the benefit of the community of the City of Dundee in such ways as would commend themselves to the Council. The Castle has been let for many years now to the Church of Scotland and is operated as a care home for the elderly by the Church's Social Care Council, Crossreach. In addition, Belmont Camp is let to the Scottish Centres who have a lease until 2039.
- 4.5 The Church of Scotland have approached the Council to request that they be allowed to relinquish their lease. The Home does not accommodate any Dundee residents or, veterans from the Great War. The Church of Scotland have recently announced the care home's closure.
- 4.6 Whilst some Dundee schoolchildren still attend music camps at Belmont Centre, the Centre is used by children throughout Scotland and because of the length of the lease the Belmont Estate will continue to occupy that role. The Estate is seven miles from the outer boundary of Dundee and is clearly not within the Council boundaries. There is a park within the estate but it is rarely used by Dundee City residents. It is considered that the continuing annual cost to Dundee of the running of Belmont Estate of £10,000 is not beneficial to the citizens of Dundee.
- 4.7 In 1996, the Estate was transferred to Perth and Kinross Council by the Local Government etc, (Scotland) Act 1994. However, at that time, the Council operated a saw mill at the Estate and employed four sawmill workers there. In addition, a small tree nursery operated at Belmont. As a result, Perth and Kinross disposed the Estate back to Dundee City Council in 1997. However, both the sawmill and the tree nursery have now ceased operation, and there is no longer any strategic reason for Dundee City Council to continue to own the Estate.
- 4.8 The Confirmation Order in Paragraph 12 states that "if the Council dispose of any part of Belmont Estate, the proceeds of any such disposal and any other receipts of a capital nature arising in connection with Belmont Estate shall be applied towards capital expenditure in connection with Belmont Estate including the improvement of Belmont Estate and until such time as the monies are so applied the same shall be separately funded and the income derived from the investments in the funds shall be included in and for part of the ordinary income of Belmont Estates". The consequence of this is that were the Council to sell Belmont Estate at present all of the monies would require to be reinvested in the estate, in other words, the purchase price would have to be given back to the purchaser. Clearly, this is not an acceptable option.
- 4.9 Private legislation to amend a private Order proceeded to Westminster in the past. However, following the Scotland Act this matter is not a reserved matter and therefore an application would have to be made to the Scottish Parliament. Consultation would require to take place with the tenants and neighbouring occupiers.
- 4.10 It is estimated that it could take upwards of a year for this process to be completed but the benefit to the Council in the long run may be substantial.
- 4.11 Over the years, there have been various attempts to make the Estate more viable such as a sawmill, assault course and leasing more areas to the Scottish Camp Centre. None of these strategies have been successful. The realisation of a Capital Receipt for the Estate to expend within Dundee is considered the best option for the City Council.
- 4.12 The Capital Receipt(s) realised from the sale(s) could thereafter fund part of the cost of a project which more appropriately benefits the community of the City of Dundee in line with the desires of the original donor of the gift.

## **5.0 CONCLUSION**

- 5.1 It is recommended that the Council approve an application to the Scottish Parliament to amend or partially repeal the Confirmation Act so as to permit Belmont Estate to be sold or otherwise disposed of in accordance with an appropriate disposal strategy, and the proceeds used towards the benefit of the community of the City of Dundee, the stated aim of the original grant of the estate to Dundee Corporation in 1918.
- 5.2 The Committee's attention is also brought to the terms of S.82 of the Local Government (Scotland) Act 1973 which provides that any resolution of a Local Authority to promote private legislation must be passed by a majority of the whole number of the Members of the Council..

## **6.0 POLICY IMPLICATIONS**

- 6.1 This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty and Equality Impact Assessment.

There are no major issues.

## **8.0 CONSULTATION**

- 8.1 The Chief Executive, Director of Corporate Services and Director of Environment have been consulted on the contents of this report.

## **9.0 BACKGROUND PAPERS**

- 9.1 None.

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Date: 28th May, 2013