



REPORT TO: POLICY & RESOURCES COMMITTEE ON 13 JUNE 2017

SUBJECT: DUFFTOWN CLOCK TOWER

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

1. REASON FOR REPORT

- 1.1 This report invites the Committee to note the outcome of a public meeting organised by Dufftown and District Community Association on the future of Dufftown Clock Tower and consider recommendations for the way forward.
- 1.2 This report is submitted to the 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 **It is recommended that Policy and Resources Committee agrees:-**
- (i) for Officers from the Council's Community Asset Transfer team engage with the Dufftown community to support a possible transfer of the Dufftown Clock Tower to the community; and,**
 - (ii) that in the event of there being no substantive proposals coming forward from the community within the next 12 months, a report is brought back to this committee for further consideration.**

3. BACKGROUND

- 3.1 Dufftown Clock Tower was erected in 1839 and is a category B listed building. A single storey extension was added in 1925. The Council last occupied the property in 1977. The upper floors of the building have not been used for many years, with the ground floor only having been let to third parties.
- 3.2 On 5 October 2005, the Council's Educational Services Committee agreed that the clock tower was no longer required for operational purposes (para 18 of the Minute refers). Consequently, the building no longer forms part of the operational asset base. At the time, the ground floor was occupied as a seasonal Tourist Information Centre by Visit Scotland, who subsequently vacated the building in April 2014. The ground floor was then let on a short term basis to Black and Williams Ltd, which company has now been wound up. The building is currently vacant and is in a deteriorating condition.

- 3.3 On 25 May 2016, the Council agreed to adopt a 'make do and mend' approach to investment in its asset base (para 11 of the Minute refers). This approach recognises that the current range of service provision is financially unsustainable and limits investment as far as possible to that required to maintain resilience in the operational asset base needed to support the delivery of current services.
- 3.4 On 15 February 2017, the Council agreed to stop maintaining town clocks (para 6 of the Minute refers). Whilst the Dufftown clock mechanism is in a satisfactory condition, the clock is currently stopped due to the power having been shut off on health and safety grounds. In accordance with the Council's decisions to adopt a 'make do and mend' approach and stop maintaining town clocks, no maintenance or repair works to the building have been instructed.
- 3.5 An external inspection of the tower carried out in 2015 identified that, whilst the building had been fairly well maintained, a range of remedial works estimated at £48,800 were required to prevent deterioration. A more recent inspection identified that the flat roof over the ground floor extension has suffered significant damage resulting in water ingress affecting the power supply. The cost of repairing the flat roof has been estimated at £5,000. Additional minor works to the power supply to bring it up to current standards would be required before the power could be switched back on safely.
- 3.6 Under Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act), which came into force on 23 January 2017, eligible community-controlled bodies have a right to make a request to take over control of buildings held by the Council. To make a valid asset transfer request under the Act, a community body must state what rights it wishes to take over, how much it is willing to pay for those rights, what it plans to do with the asset, how it will fund its proposals, and whether the proposals are supported by the community.
- 3.7 The clock tower is held on a Common Good title and, due to its historic use, a question arises as to its alienability. Consequently, any proposal to dispose of the property by means of a sale or long lease requires court consent. Leases of 10 years or more over Common Good property have been considered by the courts as disposals requiring consent.
- 3.8 It is not possible to provide an estimate of the time or potential costs involved in obtaining court consent to dispose of the property as both depend upon whether there are any objectors to the application. If there are no objectors and the court is satisfied with the process, including public consultation, it could be dealt with in a few months. However, if there are objections to the proposal then a period of 18 months might be more realistic.

4. OPTIONS FOR THE FUTURE

- 4.1 The Council has no operational requirement for the clock tower to deliver current services, leaving it with three options for the future of the building:

- (i) Make it available for transfer to a suitable community-controlled body. Under this option, referred to as community asset transfer (CAT), it would not be appropriate to seek court consent until a suitable community controlled body comes forward with a sustainable proposal that is supported by the local community. CAT allows for a range of possible community-led options. If, after a reasonable period of time, no suitable proposals were brought forward, alternative options could be pursued.
- (ii) Make it available for disposal on the open market. Under this option, court consent would be sought before marketing commences. A robust application to the court would need to demonstrate community support.
- (iii) Mothball the property. This is the ‘Do Minimum’ option, which only involves doing the minimum necessary to maintain public safety and meet the Council’s legal obligations as property owner.

4.2 In recent years, a number of community organisations have shown interest in taking over the clock tower. On 8 May 2017, Dufftown and District Community Association held a public meeting on the future of the clock tower at which the three options detailed above were presented. At the meeting a fourth option was put forward – that the building be retained by the Council, repaired and brought back into use. This option only gained one vote, with the majority of the votes by those present (70%) being for some form of CAT.

4.3 Prior to the public meeting Speyside Youth Limited, a charitable company, formally expressed its interest in an asset transfer of the building. At the meeting, a representative of the company indicated that it wished to pursue a negotiated acquisition. Although this option falls outside of the provisions of the Community Empowerment Act, it remains a possibility for a suitably constituted community-controlled organisation under the Council’s CAT arrangements. At the time of writing, the company had not yet submitted substantive proposals.

5. SUMMARY OF IMPLICATIONS

(a) **Moray 2026: A Plan for the Future and Moray Corporate Plan**

The transfer of property assets to the community can promote the stability and sustainability of that community, thereby contributing to the priorities set out in Moray 2026 and in the Moray Corporate Plan. Each asset transfer request is dealt with on its own merits, having regard to the benefits set out in that request.

(b) Policy and Legal

On 21 March 2017, the Policy and Resources Committee agreed the following policy statement in relation to community asset transfer (para 5 of the Minute refers):

“Moray Council recognises the important role that the transfer of property can play in empowering communities and strengthening their resilience. Where appropriate, the Council will use the transfer of assets to give more control to communities and local people, inspire them to find local solutions to community needs, and as a means of helping communities become more sustainable in the long term. In determining all asset transfer requests, the Council will have regard to the guidance provided by the Scottish Government in relation to asset transfer requests made under Part 5 of the Community Empowerment (Scotland) Act 2015, whether or not such requests are made under the provisions contained in the Act.”

Common Good assets are administered by the Council in relation to each former Burgh within the Council’s administrative area. Common Good is owned outright by the Council by virtue of Section 222(2) of the Local Government (Scotland) Act 1973. In administering Common Good assets, the Council is required to have regard to the interests of the inhabitants of the area to which the Common Good formerly related.

Dufftown Clock Tower is a Common Good asset over which a question arises as to its alienability due to its having been used previously for a public purpose. Consequently, a disposal or transfer of the asset would require court consent. In reaching its decision, the court is likely to take into consideration the level of community support for a transfer or disposal.

(c) Financial

An indicative desktop assessment of the market value of the Dufftown clock tower in its present condition amounts to £1 (One Pound Sterling). The costs of carrying out the repairs identified in this report are unlikely to be fully recouped through any resultant increase in value.

The costs of obtaining court consent to dispose of the building would amount to a minimum of £2,000. However, for the reasons of uncertainty stated in the report, it is not possible to identify an upper limit to these.

The cost of repairing the flat roof and reinstating the power supply amounts to approximately £6,250. The cost of bringing the whole building back into a wind and watertight condition and preventing further deterioration would amount to a minimum of £55,000. These costs do not include any works required to make the whole building suitable for re-use.

The estimated distributable balance for 2017/18 from Dufftown Common Good income amounts to £12.50. Consequently, any expense incurred would fall upon the Council’s general fund.

(d) Risk

If immediate repairs are not undertaken to the flat roof over the ground floor extension, there is a risk of further deterioration to the fabric of the building. Any risk related to specific proposals to transfer or otherwise dispose of the clock tower would be addressed in a future report to this Committee on that proposal.

(e) Staffing

None arising from this report.

(f) Property

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

(g) Equalities

An Equalities Impact Assessment is not required as agreeing the recommendations would have no effect on how services are delivered.

(h) Consultations

Members of the Asset Management Working Group together with the Estates Manager, Senior Building Surveyor, Legal Services Manager (Property and Contracts), Equal Opportunities Officer, Gillian Bailey, Community Support Officer, and Lissa Rowan, Committee Services Officer, have been consulted and all comments incorporated in the report.

Speyside Glenlivet Ward Members are aware of the report and may make their views known at the meeting.

6. CONCLUSIONS

- 6.1 Dufftown clock tower does not form part of the Council's operational asset base and is not required for the delivery of current services. Consequently, it is not a priority for investment by the Council under its agreed 'make do and mend' arrangements.**
- 6.2 Considerable support for a transfer of the building to the community was demonstrated at a public meeting held on 8 May 2017. This option is the most likely to provide the level of community support required for a successful application to the courts for consent to transfer or dispose of the building.**

- 6.3 Given the significant level of community support for some form of community asset transfer, it is considered unlikely that an application to the courts for consent to dispose of Dufftown Clock Tower on the open market would be successful at this time.**