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| Report To: | Policy and Resources Committee | Date: | 24 March 2019 |
| Report By: | The Head of Legal and Property Services | Report No: | LP/038/20 |
| Contact Officer: | Peter MacDonald | Contact No: | 2618 |
| Subject: | Proposed Re-appropriation of the Site of the Former Hector McNeil Baths | | |

1.0 PURPOSE

- 1.1 The purpose of this report is to seek authority to progress both the public consultation and the action for consent of the Court detailed in the body of the report, relating to proposals to appropriate the site of the former Hector McNeil Baths for use as a Learning Disability Hub.

2.0 SUMMARY

- 2.1 The Health & Social Care Committee its meeting of 27 February 2020 supported the former site of the Hector McNeil Baths as the preferred site for the construction of a new Learning Disability Hub.
- 2.2 As this site is inalienable common good land, it is necessary that a consultation be progressed under Section 104 of the Community Empowerment (Scotland) Act 2015 and to obtain the consent of the Court under Section 75 of the Local Government (Scotland) Act 1973, in relation to the proposed change of use of the site.
- 2.3 A further report will be brought to the Environment and Regeneration Committee to allow consideration of responses to the Consultation.

3.0 RECOMMENDATIONS

It is recommended that the Committee:

- 3.1 authorises the Head of Legal and Property Services to carry out a public consultation in terms of Section 104 of the Community Empowerment (Scotland) Act 2015 on the proposals set out in this report;
- 3.2 notes that a further report will be brought to the Environment and Regeneration Committee on the outcome of that consultation; and
- 3.3 authorises the Head of Legal and Property Services to progress an action at Greenock Sheriff Court in terms of Section 75 of the Local Government (Scotland) Act 1973 for consent to the proposals set out in this report.

4.0 BACKGROUND

- 4.1 The Health & Social Care Committee considered a detailed report at its meeting of 27 February 2020 on possible sites for the construction of a new Learning Disability Hub, and supported the selection of the former site of the Hector McNeil Baths as the preferred location.
- 4.2 The project involves the development of a new Inverclyde Community Learning Disability Hub. The new hub will support and consolidate development of the new service model and integration of learning disability services with the wider Inverclyde community in line with national and local policy. Delivering a new build Learning Disability Community Hub will ensure that people with a learning disability are fully supported to achieve their ambitions to be as independent as possible and included in their own community. Delivering the service model will support people to develop and maintain relationships and live healthy, safe and valued lives. The approximate net build cost for the hub at this location is circa £7.4M.
- 4.3 Following selection of the preferred location, officers are now progressing the initial design elements. It is necessary for the Council to carry out the steps detailed in this report before a final commitment to this site or any contract award in respect of construction is made, and so it is appropriate that such steps be undertaken at this time.
- 4.4 The site of the Hector McNeil Baths originally formed part of the Lady Alice Park. The title to this was acquired, along with a number of other park sites, by the Corporation of Greenock in terms of a Deed of Gift granted in 1928. In terms of the wording of deed of gift the site:
- forms part of the common good estate; and
 - is also inalienable common good.
- 4.5 As this site is inalienable common good, it cannot be disposed of or appropriated to another purpose by the Council unless the consent of the Court is obtained in terms of Section 75 of the Local Government (Scotland) Act 1973.
- 4.6 As this site is part of the common good estate in general, before reaching a decision on disposing of or changing the use of the site, it is necessary for the Council to:
- carry out a public consultation on its proposals in terms of Section 104 of the Community Empowerment (Scotland) Act 2015; and
 - in reaching a decision to change the use, have regard to the responses to that consultation.
- 4.7 Part of the site is occupied by a local pollinator group in terms of a short term licence arrangement, and officers are keeping them advised as to the proposals for the site and progress. If the project proceeds on this site, it will be necessary to alter significantly or end that occupation. The proposed Learning Disability Hub will incorporate as much of the landscaping improvements implemented by the group in the Hub's outside space requirements as is practical, and engage with them to see if their work can be continued in a complementary manner.

5.0 PROPOSALS

- 5.1 A notice of the consultation, detailing the site, the proposals, and how and by when responses should be sent to the Council, will be:
- published on the Council website;
 - placed at the site;
 - sent directly to all active Community Councils; and
 - sent directly to any community group known by officers to have an interest in the site (including the pollinator group referred to above).

In this instance, given the nature and scale of the proposals, officers will also arrange for the notice to be published in the Greenock Telegraph on two occasions. The consultation process must run for a minimum period of 8 weeks.

- 5.2 Once the 8 week consultation period has ended, a further report will be brought to the Environment and Regeneration Committee, to advise as to the terms of responses received and allowing consideration of the same in the reaching of a decision on whether or not to approve proposed change of use/appropriation of the site.
- 5.3 Officers will also raise a petition at Greenock Sheriff Court for consent to the change of use. The above consultation feedback will feed into that process, and the Community Councils and the community groups referred to above will be advised of the action. The Court will have regard to all the facts and circumstances surrounding the proposal in reaching its decision, and may or may not grant such consent. The Court may also impose conditions if it deems that appropriate. It is anticipated that the Court process may take up to a year to complete, however both this timeline and the possible costs of the action can vary dramatically depending upon the nature and extent of feedback both to the above consultation and the court process itself.
- 5.4 Although consideration of the responses to the consultation has still to be undertaken, taking into account:
- the budget in relation to the proposed project;
 - the likelihood of time criticality in that process; and
 - the uncertainty around the time the action for consent could take,
- it is appropriate that the Court process be commenced at this stage.

6.0 IMPLICATIONS

6.1 Finance

Financial Implications:

One off Costs

| Cost Centre | Budget Heading | Budget Years | Proposed Spend this Report | Virement From | Other Comments |
|-------------------------|----------------|--------------|----------------------------|---------------|--|
| Learning Disability Hub | Site Assembly | 2020/21 | 5-10K (indicative only) | | The actual costs of a court action will depend on the nature and extent of the response to the consultation and the action itself. |

Annually Recurring Costs/ (Savings)

| Cost Centre | Budget Heading | With Effect from | Annual Net Impact | Virement From (If Applicable) | Other Comments |
|-------------|----------------|------------------|-------------------|-------------------------------|----------------|
| N/A | | | | | |

6.2 Legal

As the site is part of the common good estate, before deciding to change the use of the site, it is necessary for the Council to carry out public consultation process in terms of the Section 104 of the Community Empowerment (Scotland) Act 2015 and, in reaching a decision on whether or not to change the use, have regard to any responses to that consultation. As the site is inalienable common good, consent of the Court is necessary in terms of Section 75 of the Local Government (Scotland) Act 1973 to appropriate it to a new purpose.

6.3 Human Resources

None.

6.4 Equalities

Equalities

(a) Has an Equality Impact Assessment been carried out?

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|---|--|
| | YES |
| X | NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required |

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

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|---|--|
| | YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed. |
| X | NO |

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

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|---|---|
| | YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals. |
| X | NO |

7.0 CONSULTATIONS

7.1 None.

8.0 BACKGROUND PAPERS

8.1 None.