

Fortrose and Rosemarkie Common Good

Proposal to dispose, by lease, of Fortrose Campsite to the existing tenants

Representations And Responses

Representations

The Council received 47 representations in response to the publication of the consultation document. These are broken down as follows:-

- 42 – supportive/positive
- 5 – objecting or raising issues
- 31 – local residents
- 9 – visitors
- 1 – originally visitor but moved to live locally
- 6 – location not specified

Examples of the supportive representations received

- Long term lease allows money to be raised for investment, allows for return on investment, provides long term security and is for the good of the community
- Improvement to condition of site and reputation
- Site promotes return business which is of benefit to the whole community
- Existing tenants have shown commitment to the community by promoting the area, local businesses, tourism initiatives and employing local people
- Existing tenants are considerate to community and neighbours and discuss any proposed work/improvements
- Quote from a site users and return visitors – one of the “friendliest and best run sites”; “The tenants go to endless lengths to ensure their visitors are looked after, the facilities are kept in excellent condition”
- Quote from a local resident – “Fortrose is the better for their having the site, and by extending the lease they will have more security to continue their good work”
- Securing such committed tenants is an opportunity that should not be missed by the Common Good Fund
- Tenants are noted to be approachable, passionate, hardworking, environmentally aware, fair/good employers and sensitive to the local community

Questions raised and the Council's responses

Questions/issues/concerns	Council's suggested response
30 year lease is too long; it should be no longer than 10 years – what is the business case for a lease of this length? The existing tenants took on the lease knowing it only had 10 years left to run and were prepared to invest therefore a shorter period for payback on investment should be sufficient.	The usual caravan park lease term is over 20 years. Commercial operators are unlikely to take a shorter lease, or if they do, they are less likely to invest. It is understood that the existing tenants took on the lease anticipating Highland Council would agree to renew although they now appreciate that this was not guaranteed.
No information has been provided regarding future investment plans to justify granting a long lease.	A new long lease will give the tenants some assurance to develop their future investment plan. For the landlord, the justification for the proposal is that it guarantees a long income stream for the Common Good Fund.
In the future the Community Council or a voluntary body might want to take on the campsite and run it for the good of the community – the length of lease proposed would make this virtually impossible.	Currently the caravan site is leased on a commercial basis with the rent being collected for the Common Good of the community. If the Community Council/voluntary group took over operation, there would be an expectation that they would continue to pay a commercial rent unless a business case was advanced and approved for a reduction. Whilst the caravan site is owned on behalf of the Common Good any improvements are owned by the tenant who is not bound to leave them if/when the lease expires/ends. Any new tenant/operating group would need to bear this in mind.
Consultation is limited by a failure to disclose the full terms of the lease. Rent must be market rent.	The full proposed terms of the lease are commercially sensitive at this time however they are broadly similar to the standard commercial lease. The proposal clearly states that the rent will be market rent and will continue on this basis.
Rent should be reviewed annually not 5 yearly with an adjustment on 5 yearly basis if market rent exceeds RPI.	The common practise for commercial leases is for rent reviews to be 5 yearly. In this case the rent is to be reviewed 5 yearly to market rent on an upward only basis.

Existing tenants should be granted a shorter lease but offered 5 year extensions if they agree	It would be unreasonable to expect the existing tenants to agree to a commercial lease on such terms.
The lease should be non-assignable otherwise Highland Council will have no say in any future operators. If the tenants wish to leave the lease should revert to the Common Good Fund.	To prohibit assignation completely is a highly restrictive and onerous clause and would have a significant detrimental impact on the marketability of the asset for lease and future rent reviews. Highland Council on behalf of the Common Good will have the right to refuse an assignation provided the refusal is reasonable.
The Community Council must be consulted and must agree before any tenancy agreement is signed off.	The Community Council is a statutory consultee in respect of section 104 consultations and will be invited to make any representations. Highland Council must have regard to all representations made within the process when reaching a decision in respect of the proposal. However, the final decision rests with Highland Council after consideration of the information received and there is no requirement to seek the prior agreement of the Community Council.
The boundary of the campsite appears to be the high water mark unlike the privately owned neighbouring houses, is this correct?	The boundary of the caravan site is as stated on the lease plan and extends to the high water mark. The boundaries of the private properties would have been set when those plots were sold, and no further information is available.
The increased business has resulted in an increase in traffic along Wester Greengates – there have already been some minor accidents at the hazardous corner. Could some of the rent received be used to resolve this issue and make the corner safer for all users?	The caravan park is a Common Good asset and the rental income is received into the Common Good Fund. However, these concerns have passed to Highland Council's Roads Service for their attention.