

MW/ABB 1/40/9(827/16)

4 January 2017



Gordon C Stalker

By email only: [request-346629-b7f01e5b@whatdotheyknow.com](mailto:request-346629-b7f01e5b@whatdotheyknow.com)

**CHILDREN & LEARNING**

Strategic Director:  
Margo Williamson

Dear Mr Stalker

### **Freedom of Information Request - Review**

I refer to your request for information dated 20 October 2016 and your subsequent modification or clarification dated 31 October 2016.

You requested the following information:-

**I would like to obtain all information regarding the secret deal referred to in the Dundee Courier on 2 September 2015. If there was no secret deal please state so clearly.**

**If there was can I please receive the documents as it is a criminal offence to destroy documents requested under FOI.**

I also refer to your email dated 28 November 2016 following receipt of our response to your request. Notwithstanding the terms of your email, the Council is obliged under the Freedom of Information (Sc) Act 2002 ("the Act") to hold a review. For clarification, I would add, as you are aware an internal review did indeed take place regarding your previous request (583/16) to which you received both a review response and a response to your initial request for information.

Your review request has now been considered by the Council's review panel which comprised Les Hutchinson, Head of Quality & Performance, Children & Learning Directorate and myself. It is important to note, neither of us had any involvement in consideration of your initial request for information.

4 January 2017

With regard to the review, in terms of Section 21(4) of the Act, the review panel may:-

- (a) confirm a decision complained of, with or without such modification as it considers appropriate;
- (b) substitute for any such decision a different decision; or
- (c) reach a decision, where the complaint is that no decision has been reached.

The review panel decided to reverse the authority's decision and release report No 838/11 considered by Angus Council on 15 December 2011 which dealt with the proposed financial arrangements between the Council and WOW Leisure. This unredacted report is enclosed. Incidentally, I would advise that the decision to agree report 838/11 was unanimous. I also enclose a copy of the Council's follow up reports 113/12 and 385/12 considered by the Council on 9 February 2012 and 28 June 2012 respectively (also unredacted).

I would also like to take this opportunity to address your assertion that the Council did not respond to your questions of 1-3 of 20 October 2016. It was our understanding that you had agreed to the modification of your request of 20 October 2016 when you asked that all information regarding the "secret deal" referred to in the Dundee Courier on 2 September 2015 and the Council dealt with the modified request accordingly in its response to you of 28 November 2016. However, the review panel agreed some further information should be provided to you, by way of assistance, to try and address the queries in your email of 20 October and I would respond as follows:-

1. **There is no information on the loan of £275,00 which you granted to WOW Leisure on 23 December 2011. Why was this loan granted and what security was in place failing its repayment?**

The Council has provided the reports 838/11, 113/12 and 385/12 which provide information on the said loan.

2. **There is no information on your company's sequestration of WOW Leisure and why you carried out this action in August 2015. Can you please provide this.**

I enclose reports 248/15 and 413/15 considered by full Council on 18 June 2015 and 22 October 2015 respectively which set out the background and justification for the action that was taken by the Council with regard to the recovery of debts due to the Council by WOW Leisure.

3. **You have redacted the financial details and checks on Mr McDonald. A phone call to any solicitor in Montrose would have informed you that he was not a suitable person to do business with or have given a loan of £275,000. Can you please provide unredacted financial details as these are not excluded by the Freedom of Information (Scotland) Act 2002.**

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In our response to your previous request (583/16), we explained that the arrangements were entered into by WOW Leisure and not Mr McDonald as an individual.

I trust this information is helpful to you.

If you are unhappy with the Review Panel's decision you can take your complaint to the Scottish Information Commissioner. The Appendix enclosed explains the process for doing that.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Margo Williamson', with a long horizontal flourish extending to the right.

Margo Williamson  
Strategic Director – Children & Learning

**Your Right to Complain to the Scottish Information Commissioner:**

If you are dissatisfied with a decision of the Council's Review Panel (or where the Review Panel has not provided you with a response), you have the right to apply to the Scottish Information Commissioner for a decision as to whether your request for information has been dealt with by the Council in accordance with the Act.

Your application to the Scottish Information Commissioner must:

- be made within 6 months of receipt of the decision of the Council's Review Panel (or within 6 months of the date that the Review Panel should have responded);
- be in a recordable format (letter, e-mail, audio tape etc);
- give your name and address for correspondence.
- give details of the request for information which you originally requested from the Council;
- give details of why you were dissatisfied with the Council's response to your original request;
- give details of why you were dissatisfied with the decision of the Council's Review Panel.

**The Scottish Information Commissioner can be contacted at:-**

Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9BS; Telephone - 01334 464610; Fax -01334 464611; Email - [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info))

**ANGUS COUNCIL – 15 DECEMBER 2011**

**FACILITATION OF INWARD INVESTMENT**

**REPORT BY CHIEF EXECUTIVE, DIRECTOR OF CORPORATE SERVICES & DIRECTOR OF  
INFRASTRUCTURE SERVICES**

**ABSTRACT:** This report details the discussions which have been ongoing regarding an investment opportunity at GlaxoSmithKline in Montrose and the proposal for the Council to provide a loan to a commercial enterprise in this regard.

**1. RECOMMENDATIONS**

It is recommended that the Council:-

- (i) note the investment opportunity at GlaxoSmithKline, Montrose and the Council role in facilitating this;
- (ii) agree that a loan be provided by the Council to WOW Leisure Limited in accordance with the broad conditions outlined in the report;
- (iii) agree that the Director of Corporate Services, Director of Infrastructure Services and Head of Finance be delegated, in consultation with the Leader and Depute Leader of the Council and the Leader and Depute Leader of the SNP Group, to agree the detail of these conditions in respect of the loan with WOW Leisure Limited; and
- (iv) note that an update report for noting the outcome of the further diligence work required in relation to the loan will be brought back to an appropriate committee as soon as practicable in the New Year.

**2. BACKGROUND**

- 2.1 In April 2011, Andrew Witty, Chief Executive Officer of GlaxoSmithKline Plc (GSK) announced that GSK Montrose is one of four UK sites competing for a major Bio-Pharm project alongside Barnard Castle (Durham); Ulverston (South Lakeland) and Irvine (South Ayrshire). The development will create up to 500 jobs and up to £500m investment. Clearly, it was imperative that everything possible should be done to ensure that the GSK Montrose site will be chosen for what would be the largest known inward investment ever made in Angus since GSK was established in 1952.
- 2.2 At the end of July 2011, GSK brought forward a schedule of accommodation for the project and it became clear that the Montrose plant does not have sufficient space to accommodate the development required without using the adjacent South Links caravan park site which is owned by Angus Council. In 2009, the caravan park was leased to WOW Leisure Limited for a period of 30 years. This necessitated discussions with WOW Leisure Limited regarding the possible relocation of the caravan park.
- 2.3 A GSK site impact assessment team visited Montrose on 4 October when the council's Chief Executive and Head of Economic Development and Environmental & Consumer Protection gave a presentation to the assessment panel on the advantages of investing in Angus. The council approached this exercise as part of a "Team Scotland" effort led by Scottish Enterprise, Scottish Government and other key parties e.g. Dundee University. The response from GSK was positive but there is no indication yet that Montrose will be selected or not selected for this project.

- 2.4 The timescale for a decision by GSK is that a decision will not be announced until March next year (2012) when two sites will be eliminated from further assessment and a final decision will not be made until June. The timetable for a decision is the best indication available but may be subject to change.
- 2.5 This report gives a summary of the progress to date with recommendations on how best the council should respond in a way that maximises the prospect of the GSK Montrose site being chosen for this major project.

### **3. CURRENT POSITION**

- 3.1 The council and WOW Leisure Limited have been in negotiation since the beginning of August with a view to agreeing a basis for the relocation of the existing caravan park. The main aspects of this have been to identify the potential development and relocation costs (including compensation) that would ultimately have to be funded by GSK should a decision be made in favour of the Montrose site. This process has involved expenditure by the Council in terms of professional fees incurred (under delegated powers) and this will be the subject of a more detailed report to the Council in due course.
- 3.2 The development of the bio-pharm facility by GSK would necessitate the relocation of the caravan park from South Links to a new site adjacent to the "Splash" area. This land is owned by Angus Council on the common good account and will require planning consent as a major planning application. While a decision on the outcome of any planning application cannot be prejudged an undertaking has been given to GSK that the Council will seek to expedite consideration of any resultant application.
- 3.3 The timescale for application of planning consent and if approved development of a new relocated caravan park would take anything up to two years from the date the decision is made by GSK to proceed with the project. For this reason WOW Leisure Ltd would need to negotiate directly with GSK and the Council for a tripartite agreement funded by GSK as part of their development costs.
- 3.4 These considerations will be kept in abeyance until such time as a decision is made by GSK whether to proceed with the bio-pharm development at Montrose. Such a decision will then trigger a further report to the Council giving full details of any resultant agreement.

### **4. PROPOSALS**

#### **4.1 WOW Leisure Cash Flow**

- 4.1.1 It is noted from the preceding sections that WOW Leisure Limited has entered into a prolonged business standstill period while a GSK investment decision is awaited. The timescale for this decision was originally anticipated in November 2011 and the business impact to the company from this would have been negligible. However, the timescale for a decision by GSK has subsequently been revised to late March 2012 and the latest indication is that a shortlist of two sites will be announced in March and the final decision will now not take place until June 2012.
- 4.1.2 WOW Leisure Limited has intimated to Council officers that the extended business standstill period is causing a significant cash flow issue for the company due to site development and ongoing costs being incurred together with the inability to generate sales of static caravans and associated income in the intervening period. WOW Leisure Limited's financial advisers have provided supporting detail which indicates that outstanding creditors and working capital shortfall equate to a cash flow issue of circa £380,000 for the period to March 2012 which the company cannot furnish without an income outlet or an interim loan arrangement.

In light of this situation for the company they have the option of either:-

- (i) abandoning discussions regarding relocation of the caravan park and seek to recommence static caravan sales; or
- (ii) seek alternative financing in order to provide cash flow over the intervening period until either business recommences as normal, or the bio-pharm is confirmed as coming to Montrose.

These options are discussed in paragraphs 4.2 and 4.3 below.

## **4.2 WOW Abandons Relocation Discussions**

At this stage in the investment decision by the GSK Board, it is considered that the abandonment of the relocation discussions with WOW Leisure Limited would send out a detrimental message and raise potentially grave concerns regarding the feasibility of the required expansion of the GSK Montrose site. Such an event would thus count against consideration of Montrose as a possible investment site at this point in time.

## **4.3 WOW Cash Flow Financing**

4.3.1 There are a number of routes that could be taken in relation to WOW Leisure Limited's cash flow financing:-

- Bank loan – WOW Leisure Limited has sought a commercial loan to address the cash flow issue but this has not been successful. The financial market current conditions have been a key factor.
- GSK – at this stage in the consideration of the investment decision by the Board it is understood, from discussion with GSK Montrose that this would send a detrimental message to the GSK Board as to the feasibility of using the Montrose site.
- Angus Council – as lender of last resort, the Council could provide loan financing perhaps in conjunction with other public sector partners e.g. Scottish Enterprise.

4.3.2 In light of the current state of the project, it is evident that there is pressure on the Council to consider provision of a loan facility to WOW Leisure Limited in order to ensure that Montrose continues to be considered as a viable site for the bio pharm investment.

4.3.3 An approach has been made to Scottish Enterprise seeking its participation in the funding of the proposed loan; however, they are unable to participate directly in this matter. Scottish Enterprise has asked the council to note that, to date, they have already committed £1.4m to the Montrose site by way of a Research and Development grant and are actively considering a number of additional smaller but still significant funding support mechanisms that will benefit Montrose. They have also responded with a significant support package in relation to the potential bio-pharm project should a site in Scotland be chosen.

4.3.4 Scottish Enterprise is also open to accelerating progress with the delivery of the South Montrose Masterplan by making a contribution of up to £50k towards the detailed design work since this will be of potential benefit to GSK, as well as unlocking other strategic development opportunities. The latter will be subject to a funding contribution letter which commits Angus Council to a further phase of feasibility works that support delivery of the project. The details of this still have to be agreed.

4.3.5 If a solution to the problem faced by WOW Leisure Limited is not found then the company would be forced to continue trading to generate sales income and this would mean that the Montrose site would effectively be eliminated from further consideration by GSK. It is felt this is not an acceptable option and that the Council would wish to do everything in its power to ensure that the Montrose site is kept under assessment.

## **4.4 Powers to Provide Financial Assistance**

4.4.1 The Head of Law and Administration has confirmed that the Council has power in terms of Section 69 of the Local Government (Scotland) Act 1973 to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions. This power may involve spending, borrowing or lending money.

4.4.2 In terms of Section 20 of the Local Government in Scotland Act 2003, a local authority has powers to do anything which it considers is likely to promote or improve the wellbeing of its area and persons in that area or either of those. This includes giving financial assistance to any person. This is known as the power to advance wellbeing.

4.4.3 The term “wellbeing” is not defined in the legislation but will depend on a number of factors. It is a matter for local authorities to determine whether an action which the Council wishes to take can promote or improve the wellbeing of its area or its inhabitants. The Scottish Government guidance on the use of the Power to Advance Wellbeing includes as possible key considerations the possibility of economic benefits and creation of employment amongst many others. As the local authority, the Council is best placed to make decisions as to what can promote or improve the wellbeing of the area.

4.4.4 The Council is therefore entitled to use this power if it can demonstrate that there is a benefit to the wellbeing of Angus and its residents by providing the loan as detailed in this report. Given the level of potential investment from GSK and employment opportunities which the proposals may bring to Montrose, it is considered that providing a loan is wholly justifiable as it ensures that the option of using the Montrose site is kept open. If the GSK decision does favour Montrose, there are major economic benefit impacts for Montrose and the rest of Angus.

#### **4.5 Council Loan Conditions**

4.5.1 Members should note that in normal circumstances the Council would not consider entering into any such loan arrangement with a private company or individual. This case in unique and approval of the proposed loan facility would not set a precedent for other cases in the future. The investment opportunity for Montrose does, however, represent an exceptional circumstance and it is considered that a loan facility can be supported subject to a number of conditions:-

- Loan amount – the total value of the loan would be limited to a maximum of £250,000. Negotiations have been entered into with WOW Leisure Limited and their financial advisers with a view to dampening the loan sum required in order to seek to reduce the extent of the Council's exposure. Negotiations have been progressed with the company's creditors and extended loan facilities to the end of March 2012 have been agreed in a number of instances and this together with a reduced working capital consideration has reduced the original £380,000 requirement down to a more manageable sum of £250,000.
- Loan period – the loan facility would be provided until a set trigger point is reached i.e. the GSK investment announcement. Following this trigger, repayment would be required in instalments over a set timescale e.g. 6 months. Failure to comply with these repayment timescales would result in loan interest requiring to be paid to the Council.
- Loan interest – WOW Leisure Limited's business process has been put on hold through discussion with the Council regarding the GSK investment opportunity and possibility of site relocation being necessary. In these circumstances and to expedite discussions on other conditions it is considered and that it would be appropriate for any loan to be provided on an interest free basis (per the Financial Implications below the cost to the Council of such an approach is relatively minimal).
- Security – security over a fixed asset/s belonging to the company or its director would require to be provided in order to ensure the protection of public funds. This will likely be the most problematic condition for the Council to put in place in order to ensure that a robust source of security for the funds is provided. A land or property asset would require to be identified over which the Council would take a standard security (a mortgage deed). In the event that the borrower defaults on the loan by failing to repay it when required or by breaching any other conditions of the loan, the Council's remedy would be to repossess the land over which the security is held. The Council would be free thereafter to sell the asset and recover any sums due to it. It is not clear whether WOW Leisure Limited has any other land or property holdings or whether there are any other connected companies which can provide an appropriate security. However this matter has been raised with them and will be clarified before any loan monies are transferred.

4.5.2 The details of the above conditions will require to be subject of discussion with WOW Leisure Limited. It is proposed that the authors of this report, the Head of Finance, in consultation with the Leader and Depute Leader of the Council and the Leader and Depute Leader of the SNP Group, are given delegated authority by the Council to agree the terms of the loan with the borrower and to identify a suitable site over which to take a security.



A report on the outcomes from this further diligence work would be brought to the appropriate committee as soon as practicable.

## **6. RISKS**

6.1 Provision of a loan to a commercial enterprise represents a significant risk to the Council and to public funds is an area of activity in which the Council has had minimal previous dealings. The extent of risk will be significantly mitigated through suitable security being put in place. However, a number of risks will still remain evident, these include:-

- There is delay in receiving the loan repayments from WOW Leisure Limited resulting in recovery action to address.
- Loan repayments are not made resulting in legal action by the Council to implement the security conditions with associated financial and reputation costs.
- GSK Board shortleet decision takes longer than currently envisaged and WOW Leisure requests an extension of the loan period.

6.2 These represent significant and real risks associated with lending to a commercial organisation. However, these risks must be considered together with the possibility that the loan provision will assist in securing a significant investment in the GSK Montrose site.

## **7. FINANCIAL IMPLICATIONS**

7.1 The financial implications for the Council of putting an interest free loan facility in place will be twofold:-

- Loan – it will be necessary for the loan to be advanced from General Fund balances. Per the 2010/11 final accounts there is currently an uncommitted balance of £2.189 million on the General Fund. The loan repayments would subsequently be returned to General Fund balances and would therefore ultimately be cost neutral.
- Opportunity cost – the loan sum advanced by the Council would alternatively have been used as part of our working balances and subject of lending to our normal treasury counterparties (e.g. banks). The actual interest foregone by the Council will be dependant upon the finalised package of conditions negotiated with WOW Leisure. However, as a guide based on average investment returns for 2010/11 a loan of £100,000 would generate monthly interest of £110. The opportunity cost to the Council is not, therefore, significant from provision of such a loan.

7.2 It may be noted from the above that the financial cost to the Council of providing a loan facility to WOW Leisure is not significant. Of greater importance is the security provided by the company to ensure the safety of any public resources advanced together with the risk of default etc. noted above.

7.3 It is also commented that the use of General Fund balances to provide a loan facility will reduce the balance immediately available at the council budget setting meeting in February 2012.

## **8. HUMAN RIGHTS IMPLICATIONS**

There are no Human Rights implications in connection with this report.

## **9. EQUALITIES IMPLICATIONS**

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

**10. ANGUS COMMUNITY PLAN AND SINGLE OUTCOME AGREEMENT**

- We have a sustainable economy with good employment opportunities
- Angus is a good place to live in, work in and visit

**11. CONSULTATION**

The Head of Finance and Head of Law and Administration have been consulted in the preparation of this report

**12. CONCLUSION**

If approved, the unprecedented recommendations made in this report, alongside the steps already taken will ensure that the Council has done everything in its power to attract this major inward investment to Montrose. If successful the investment by GSK would represent the largest single known investment in Angus since GSK established its plant in Montrose in 1952 and would bring major economic benefits to the whole County. Even if unsuccessful, it will demonstrate that Angus Council has done everything possible to support GSK's investment plans and this will encourage continued growth at Montrose in any case.

RICHARD STIFF  
CHIEF EXECUTIVE

COLIN McMAHON  
DIRECTOR OF CORPORATE  
SERVICES

ERIC LOWSON  
DIRECTOR OF  
INFRASTRUCTURE SERVICES

**NOTE:** The background paper, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report is contained in Report No 254/09 which was agreed at the meetings of the Strategic Policy Committee of 17 March 2009 and Neighbourhood Services Committee of 16 April 2009.

**ANGUS COUNCIL – 9 FEBRUARY 2012**

**FACILITATION OF INWARD INVESTMENT - UPDATE**

**Report by the Chief Executive, Director of Corporate Services and Director of Infrastructure Services**

**ABSTRACT**

This report provides an update on an inward investment initiative for which the Council has agreed to provide loan funding support. The Council is asked to note this update position.

**1 RECOMMENDATIONS**

1.1 It is recommended that the Council:-

- a) note the contents of this report for its interest;
- b) note that further update reports will be provided to members as the potential inward investment project progresses.

**2 BACKGROUND**

- 2.1 Members will recall Report 838/11 to the Council meeting of 15 December 2011 which dealt with an item of urgent business on a potentially significant inward investment by GlaxoSmithKline (GSK) to Montrose. That report set out the circumstances surrounding the potential investment and the detrimental cash flow impact on to the company operating the South Links Caravan Park in Montrose (WOW Leisure Ltd, hereafter referred to as "WOW"). This related primarily to the need for the Council to provide a loan facility relating to WOW creditor commitments and working capital issues which required to be met given that WOW business activity had effectively been put on hold until an investment decision by GSK was made. This decision was not anticipated until March 2012. Report 838/11 authorised the authors of this report and the Head of Finance to agree the detail of the loan conditions in consultation with the Leader and Depute Leader of the Council and the Leader and Depute Leader of the SNP Group. It was also agreed that a report advising members of the outcome of the loan discussions would be brought to Committee early in the New Year.
- 2.2 The purpose of this report is therefore to update members on the loan terms which were ultimately agreed between the Council and WOW and to outline the latest position as known to officers in relation to the potential GSK investment.

**3 LOAN AGREEMENT AND OTHER LEGAL MATTERS**

- 3.1 Members may recall that the need for a loan from the Council to WOW was to address a short term cash flow difficulty for the company caused by a prolonged business standstill period while awaiting the GSK decision. A sum of £380,000 had been identified as the outstanding creditors position of WOW by mid-December 2011.
- 3.2 Set out below are the key terms of the loan agreement which has been signed by the Council and WOW.

Loan Security

As explained in Report 838/11 security for the loan is of paramount importance in order to reduce the risk to the Council's money. Following investigation it was not possible to take a standard security over WOW's assets because of a combination of insufficient value in such assets or existing securities already being in place on WOW's assets.

A number of options to securitise the loan were investigated and the conclusion reached was that in the absence of being able to take a standard security the Council should put in place a Loan Agreement with a Bond and Floating Charge which is a type of security which can be taken over moveable assets.

This approach ensures that there are assets to a value sufficient to cover the loan amount which the Council can exercise control over so that in the event of problems with loan repayment the Council could step in and sell those assets as a means of recovering the loan. The Floating Charge has been taken over the whole of the property belonging to WOW including static caravans with an additional protection included in the Loan Agreement that none of the assets can be sold without the Council's consent. This gives the Council as much protection as is feasible in the circumstances.

In order to provide the Council with added protection on the enforcement of the Bond and Floating Charge a Minute of Variation to WOW's lease of the South Links Caravan Park has also been put in place. This variation to the lease means that if WOW were to breach the terms of the Loan Agreement this would also be a breach of the lease and the Council could therefore terminate that lease if desired. This gives the Council added security that the terms of the Loan Agreement will not be breached.

#### Loan Amount

Report 838/11 indicated that the loan would be for a maximum value of £250,000. This was based on the discussions which had taken place on the options to reduce the £380,000 outstanding creditors bill to a sum more palatable for the Council to provide as a loan. The loan value proved to be a major sticking point within the negotiations with WOW insisting that a minimum sum of £280,000 was required to cover their creditors and provide a suitable sum of working capital for WOW's owner in the period up to March 2012.

It was clear from the negotiations that the loan amount was a deal breaker from WOW's perspective. Faced with the prospect of WOW walking away and this seriously damaging the GSK Montrose plant's prospects of success it was eventually confirmed (with the delegated elected members' agreement) to put in place a loan of £275,000. Such a loan value is within 10% of the sum originally indicated in Report 838/11 and is a product of the loan negotiations which had not been anticipated. The balance of creditors not covered by the loan has been addressed by WOW themselves through negotiation with those creditors.

#### Loan Period / Repayments

As a consequence of the complications around the exact timing of when GSK will make their decision, and the uncertainty of the outcome of that decision, the loan period varies depending on the circumstances which could exist.

In the event of a positive outcome for GSK Montrose the loan would be repaid once GSK and WOW have concluded a compensation package, i.e. the Council loan gets repaid as part of GSK's compensation payment to WOW.

In the event that GSK Montrose does not secure the bio-pharm investment WOW will be required to repay the loan within one year of that GSK decision becoming known. The Council has the option to extend that 1 year period by 6 months if WOW experiences difficulties in selling sufficient static caravans to repay the loan in full.

WOW also have the option to give notice to re-commence trading and begin repaying the loan if no decision by GSK has been made by 31 March 2012. In these circumstances a repayment period of 1 year with a Council option to extend for 6 months would apply.

The Loan Agreement provides that the Council will receive 100% of the gross proceeds from the sale of those static caravans which the Council's loan has paid for as part of the agreed list of creditors. This should be adequate to repay the loan in full but in case of delay in such sales or these being insufficient to meet the loan the Council will also receive 12.5% of the gross proceeds from the sale of any other static caravans belonging to WOW until such time as the loan is repaid in full.

Use of Loan Monies

As a feature of gaining security for the loan and certainty that WOW would own the assets over which the Floating Charge applies it was agreed that part of the loan amount would be paid by the Council direct to the creditors who had supplied specific static caravans which had still to be paid for. Council officers also confirmed with these suppliers that such payments would fully pay for these static caravans and therefore ownership of them would rest solely with WOW.

- 3.3 As required by the Council decision on 15 December the various elected members were contacted and taken through the key loan terms by the Director of Corporate Services. All members confirmed their agreement to these key loan terms, including the increased loan amount, thereby allowing the loan agreement to be signed off and the loan monies paid over.
- 3.4 Having eventually reached agreement on the loan terms and related legal issues the £275,000 of Council cash was ultimately paid over on 23 December 2011 as follows:-

Cash to WOW Leisure (to pay local Creditors and Working Capital provision)	£159,091
Cash to Static Caravan Suppliers	<u>£115,909*</u>
TOTAL	<u>£275,000</u>

\* - the sale value of the static caravans covered by these purchases are significantly more than the purchase price from the supplier and should provide sufficient value to cover the Council's loan in normal market conditions.

- 3.5 Although the loan negotiations were difficult and dealt with in a very short timescale, a positive outcome has been obtained which gives the Council security over the loan, ensures that WOW can continue to operate, and critically, removes what would otherwise be a major impediment to the GSK Montrose plant's hopes of securing the bio-pharm investment.

**4 INWARD INVESTMENT UPDATE**

- 4.1 As reported in report R838/11, the timescale for a decision by GSK remains that a decision will not be announced until March this year (2012) when two of the four sites will be eliminated from further assessment and a final decision will not be made until June. This timetable for a decision is still the best indication available but may still be subject to change.

**5 RISKS**

- 5.1 The risks associated with this loan remain largely as outlined in Report 838/11. The loan agreement and other legal agreements connected with the loan provide the strongest security available in the circumstances but the loan amount will remain "at risk" until such time as it has been repaid in full.



## **6 FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications arising from the recommendations in this report. The loan amount of £275,000 has been funded from uncommitted General Fund balances and those Balances will be replenished when the loan is repaid.
- 6.2 Significant senior officer time has been expended on this project to date but there are no additional costs for the Council arising from this.

## **7 CONSULTATION**

- 7.1 The Head of Finance and the Head of Law and Administration have been consulted in the preparation of this report.

## **8 HUMAN RIGHTS IMPLICATIONS**

- 8.1 There are no Human Rights implications arising from the recommendations made in this report.

## **9 EQUALITIES IMPLICATIONS**

- 9.1 The issues contained in this Report fall within an approved category that has been confirmed as exempt from an equalities perspective.

## **10 CONCLUSION**

- 10.1 Despite the time pressures on all parties and the difficulties in negotiating a loan agreement acceptable to all a suitable conclusion was reached immediately prior to Christmas which secures the immediate financial position of WOW as a business and ensures that GSK Montrose remains in contention for the bio-pharm investment.

**Richard Stiff**  
**Chief Executive**

**Colin McMahon**  
**Director of Corporate Services**

**Eric Lowson**  
**Director of Infrastructure Services**

**"EXEMPT**

**(not for publication by virtue of Paragraphs 6 and 9 of Part 1 Schedule 7A to the 1973 Act)"**

**AGENDA ITEM NO 12**

**REPORT NO 385/12**

**ANGUS COUNCIL – 28 JUNE 2012**

**FACILITATION OF INWARD INVESTMENT - UPDATED POSITION**

**REPORT BY THE DIRECTOR OF CORPORATE SERVICES**

**ABSTRACT**

This report provides an update on the loan funding support and debt pursuance relaxations provided by the Council to a commercial enterprise in order to facilitate a major inward investment opportunity which was subsequently unsuccessful. Details and commentary are also provided about a compensation claim being pursued by the commercial enterprise in relation to loss of business they consider they have sustained with regard to facilitating the inward investment prospect.

**1. RECOMMENDATIONS**

It is recommended that the Council:-

- (i) note the circumstances that led to the Council incurring professional fees costs, providing a loan arrangement to a commercial enterprise, WOW Leisure Limited, and providing a temporary suspension regarding recovery of other debts owed by the enterprise;
- (ii) note that WOW Leisure Limited has resumed normal trading with effect from late March 2012;
- (iii) note that in these circumstances the relevant sections of the Loan Agreement have been invoked by Angus Council and recovery of other WOW Leisure Limited debt with the Council will now recommence;
- (iv) note a compensation claim has been submitted by WOW Leisure Limited for losses it considers it has suffered over the period of business standstill;
- (v) note the responses provided to WOW Leisure Limited by Council officers to the contents of the compensation claim;
- (vi) note the negotiations entered into by Council officers with GlaxoSmithKline (GSK) to recover, or achieve a significant contribution towards, the Council's financial outlays incurred in the promotion and support of the potential significant inward investment;
- (vii) agree that the Director of Corporate Services, the Head of Law and Administration and Head of Finance be delegated, in consultation with the Leader of the Council and a member of the non-Administration, to progress the compensation claim with WOW Leisure Limited and GSK, and to make arrangements to progress the repayment of the loan facility and other outstanding debts due by WOW Leisure Limited to Angus Council; and
- (viii) note that an update report will be submitted to Angus Council on 13 September 2012.

**2. BACKGROUND INFORMATION**

- 2.1 Members are referred to Report Nos 838/11 and 113/12 which respectively dealt with an item of urgent business on a potentially significant inward investment prospect by GlaxoSmithKline (GSK) to their Montrose location. To maintain the inward investment prospect the Council was required to provide a loan facility to WOW Leisure Limited who are the operator of the South Links Caravan Park site which is owned by Angus Council and is located adjacent to the GSK site. Following discussions between Council officers and WOW Leisure Limited regarding the prospect for inward investment and relocation of the caravan park, WOW Leisure Limited decided to place the business on standstill given that continued development activity could prove abortive if the business ultimately relocated. In these circumstances, the standstill would continue until GSK made a decision on its choice of one of four UK locations for its inward

investment intentions. A decision was anticipated in late March 2012 but with the possibility of further delays before an ultimate conclusion was reached.

- 2.2 Report No 838/11 authorised appropriate named officers in consultation with identified senior politicians to conclude the detail of the loan provision and conditions with WOW Leisure Limited. Report No 113/12 provided these loan agreement details which are summarised as follows:-

- Loan Amount: £275,000 (interest free)
- Loan Security: Loan Agreement with a Bond and Floating Charge.  
  
The Floating Charge applies to the whole of the property belonging to WOW Leisure Limited including static caravans.  
  
None of WOW Leisure Limited's assets can be sold without the Council's consent.
- Loan Period/Repayments: The loan period varies depending on circumstances. The pertaining circumstances mean:
  - WOW Leisure Limited are required to repay the loan by 31 March 2013; and
  - the Council has the option to extend until 30 September 2013.

The Council will receive 100% of the gross proceeds from static caravan sales paid for from the Council loan provision and 12.5% of other static caravan sales until the loan is repaid in full.

- 2.3 GSK issued a Press Release on 22 March 2012 announcing that the new biopharmaceutical factory was to be located in Ulverston, Cumbria, England and accordingly Montrose and Angus had been unsuccessful in achieving the significant inward investment. However, the press release also announced more than £100 million separate funding for GSK manufacturing in Scotland which included investment in the Montrose site which was consequently determined to be up to £50 million.

- 2.4 On receipt of the GSK Cumbria site investment confirmation, WOW Leisure Limited was able to recommence business trading in late March 2012 in the knowledge that this activity would not now prove abortive as site relocation was no longer a prospect. The £275,000 loan from Angus Council also now required to be repaid by WOW Leisure Limited under the terms of the Loan Agreement.

- 2.5 It is also highlighted that Angus Council applied a temporary suspension on pursuing recovery of other debts owed by WOW Leisure Limited, or the owner Mr W McDonald, to the Council in respect of rent and rates whilst the business was in a standstill period in recognition of the cash flow issues that would be encountered. The combined debt under these income headings as at mid June 2012 equates to some £52,698. In light of the standstill period having now ceased, and there being no further mitigating circumstances for continuing to do so, this will necessitate the Council removing the suspension of debt recovery and progressing a debt recovery arrangement.

- 2.6 WOW Leisure Limited intimated that they would be seeking a compensation claim in respect of loss of business over the period that the business was effectively put on standstill. This period is broadly September 2011 to March 2012 during which the interests of the potential significant GSK inward investment were pursued. It is highlighted that WOW Leisure Limited undertook a business decision to enter into a period of standstill in view of the possible site relocation and the scope for any compensation is thus considered relatively limited. The compensation claim was to be forwarded in the first instance to Angus Council given that WOW Leisure Limited have to date dealt directly with the Council as landlord on all matters surrounding the potential GSK inward investment impact on the South Links Caravan Park.



WOW Leisure Limited has had no direct relationship with GSK over this matter and GSK have been keen to continue to distance themselves from direct involvement with WOW, preferring alternatively to deal directly through the Council in our site owner capacity.

- 2.7 Meanwhile, Angus Council has sought to keep GSK Montrose site senior managers updated on all actions carried out by the Council including the £275,000 loan agreement entered into with WOW Leisure Limited, professional fees incurred during negotiations with WOW Leisure Limited and their professional advisers, and the sharing of information regarding the likelihood that WOW Leisure Limited will pursue a compensation claim for losses they believe they have incurred during the business standstill period. This was with a view to GSK assisting the Council with such costs or taking over responsibility for the loan arrangement.

### 3. UPDATED POSITION

- 3.1 WOW Leisure Limited formally resumed trading at the South Links Caravan Park with effect from late March 2012. Under the loan agreement with the Council they are required to inform us of all static caravan sales realised and repay the Council the agreed percentages as incorporated within the loan agreement. The percentages are 100% gross sale value for static caravans paid for from the £275,000 loan agreement and 12.5% of gross sale value of all other static caravan sales until the whole debt is extinguished. To date (12 June 2012) only informal notification has been intimated to the Council of one 12.5% category static caravan sale. However, no payment of the Council's 12.5% agreed share has been received. A request has been made to WOW Leisure Limited's legal representatives, Ledingham Chalmers, to furnish the Council with details of all static caravan sales achieved to date and all notes of interest being pursued in order to gauge the immediate debt repayment potential.
- 3.2 Council officers met representatives of WOW Leisure Limited, including their legal adviser from Ledingham Chalmers, on 4 April 2012 to discuss the basis of a compensation claim that WOW Leisure Limited believes is pertinent in respect of the disruption suffered by the business over the trading standstill period. Following an exchange of views at the meeting, it was agreed that WOW Leisure Limited would forward a compensation claim in the first instance to Angus Council. Thereafter the Council would consider the compensation claim and respond. The Council would also seek to engage with GSK to make them aware of the compensation claim and gauge their view on the compensation claim content.
- 3.3 A compensation claim on behalf of WOW was received from Ledingham Chalmers by email on 17 May 2012 with the principal received by post on 21 May. The summary content of the compensation claim received, along with a summary of the Council officers responses issued on 8 June and shown in italics and underlined, is outlined below:-

#### A Loss of profit on sale of static caravans £543,000

This represents WOW's estimate that 25 static caravan sales would have been realised from September 2011 through to October 2012 if the business had not been put on standstill as opposed to WOW's projection that only 11 static caravan sales will be realised over the same period now that the business has recommenced trading from late March 2012.

#### Angus Council officer's response:-

- the profit has been delayed and not foregone
- the profit remains to be earned by WOW Leisure Limited as future static caravan sales are realised
- it is a cash flow matter that will be caught up over time
- the sales projection figures shown as having been deferred are considered to be very optimistic
- Council officers repeated comments from earlier meetings that a cash flow loss projection model is required which takes into account the £275,000 interest free loan positive action taken by the Council to assist WOW Leisure Limited

In addition members are asked to note that appropriate site licence permissions together with landlord agreement are required to realise the sale levels. Also if Angus Council agreed to a proposal to pay alleged profit foregone there is no incentive for WOW to realise the static caravan sales required to repay the loan agreement which is in place. There is a further complication that if an organisation did pay the alleged profit foregone then that organisation can lay claim to be the owner of that asset.

**B Loss of ground rent £12,500**

This represents a claim that seven additional static caravan units would have been occupied as at 28 February 2012 and would be required to pay an annual ground rent at £1,750.

Angus Council officer's response:-

- the principle of loss of ground rent is agreed but the number of statics impacted is challenged along with the request for a full year loss of income recompense
- the number of caravan static's sales are considered to be very optimistic
- any recompense sum deemed payable is only part year in that there is a delay in receipt during the year rather than a whole year loss

**C General disruption £262,500**

This represents a £200,000 amount raised by WOW (or their representatives) in October 2011 as part of what they would wish to be considered in the event that the new biopharmaceutical factory was to be located in Montrose and a major business upheaval including transfer to a new site was to be explored. The additional £62,500 represents a request for £12,500 per month for general disruption from November 2011 to March 2012.

Angus Council officer's response:-

- the £200,000 element was the figure raised by WOW (or their representatives) in October based on the GSK bio-pharm investment locating at the Montrose site and the resettlement of the present caravan site to a new site
- the amount was never an agreed compensation payment and the GSK investment has not happened - therefore this claim must fall
- the balance of £62,500 is made up of £12,500 general disruption per month for 5 months (Nov 11 to March 12) and is noted but not regarded as reasonable or acceptable

**D Request that a payment of £10,000 representing 12.5% of a static caravan sale due to Angus Council is offset against the compensation claim.**

Angus Council officer's response:-

The council does not appear to have received formal notification of this sale or indeed any other sales which may have been achieved from late March onwards when normal business trading was resumed. Please forward details of all such sales and the due proportion payable to the council as per the loan agreement terms. The Council wishes to separate the compensation claim consideration from the previously agreed loan agreement and do not consent to any offset arrangements.

- 3.4 The council officers, principally the Director of Corporate Services, await a direct response from WOW Leisure Limited or their legal advisers Ledingham Chalmers following the 8 June 2012 email communication. However acknowledgement of receipt has been received. Also WOW's legal advisers have since corresponded directly with the Chief Executive in part reply to the 8 June council officer's response but raising other factors. A council response is being drafted.
- 3.5 Council officers have also been in contact with GSK and have been informed that WOW's legal advisers have been in direct contact with GSK regarding compensation claims despite apparent agreement reached that WOW and their legal advisers would deal directly through the council on all matters relating to compensation claims. GSK Montrose site managers have undertaken to forward £15,000 to Angus Council in an act of good faith and partner working to help offset costs incurred by the council. However they are very clear that they have no direct relationship with WOW and will await the outcome of the ongoing correspondence the council is having with WOW.
- 3.6 It is considered that the continuing discussions and related negotiations that require to be progressed with WOW Leisure Limited and GSK fall under the domain of Corporate Services and specifically within the Finance and Law and Administration divisions' remits. It is therefore recommended that the Director of Corporate Services, the Head of Law and Administration and Head of Finance be delegated, in consultation with the Leader of the Council and a member of the non-Administration, to progress the compensation claim with WOW Leisure Limited and GSK, and to make arrangements to progress the repayment of the loan facility and other outstanding debts due by WOW Leisure Limited to Angus Council.
- 3.7 A further update report will be provided to the 13 September 2012 Angus Council meeting with regard to the progress of these matters. In the event that a formal compensational offer to WOW Leisure Limited is considered appropriate, Council approval will be sought for agreement of the terms of this.

#### **4. RISKS**

The risks associated with the recommendations are outlined within section 3 paragraph 3.1 to 3.6 of this report. Precise risks have not yet been fully evaluated but will be further considered and commented upon in the update report to be presented to the 13 September Angus Council.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 The loan amount of £275,000 has been funded from uncommitted General Fund balances and it is intended that those balances will be replenished as repayments are made as and when static caravan sales are realised.
- 5.2 A compensation claim totalling £817,500 has been received from WOW Leisure Limited but the great majority of the claim has been contested by council officers. Also WOW Leisure Limited has used the council as their contact base for a compensation claim submission because to date they have had no direct involvement with GSK over the matter of facilitating the significant inward investment opportunity.
- 5.3 The outcomes from discussions and negotiations with WOW Leisure Limited and GSK respectively will be incorporated in the update report to be presented to the 13 September Angus Council. Any financial implications update will also be incorporated within that report.

#### **6. HUMAN RIGHTS IMPLICATIONS**

There are no direct human rights implications arising from this report.

#### **7. EQUALITIES IMPLICATIONS**

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

**8. CONSULTATION**

The Chief Executive, the Directors of Infrastructure Services and Neighbourhood Services, the Head of Finance and the Head of Law and Administration have been consulted on the terms of this report.

**COLIN McMAHON  
DIRECTOR OF CORPORATE SERVICES**

**NOTE:** 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.

CS/CMcM

**AGENDA NO**

**REPORT NO 248]/15**

**ANGUS COUNCIL – 18 JUNE 2015**

**SOUTH LINKS CARAVAN PARK, MONTROSE**

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

**Abstract:**

The purpose of this report is to advise the Council of progress made in recovering debts owed by the occupiers of South Links Caravan Park, Montrose, and the possibility of the Council having to recover possession of South Links Caravan Park and operate the premises pending a decision as to the future operation of the Park.

**1. RECOMMENDATION**

It is recommended that the Council notes:-

- (i) the progress made in recovering debts owed by the occupiers of South Links Caravan Park, Montrose,
- (ii) the possibility that the Council may have to recover possession of South Links Caravan Park and operate the premises pending a decision as to the future operation of the Park; and
- (iii) that further reports will be submitted to the Council as matters progress.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN**

- 2.1 Effective recovery of debt owed to the Council maximises the resources available to the Council to provide services. The activities referred to in this report contribute as a whole to the local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016.

**3. INTRODUCTION**

- 3.1 The Council are heritable proprietors of South Links Caravan Park, Montrose ("the Park"). In April 2010 and following a tendering exercise, the Council leased the Park to WOW Leisure Limited for a period of 30 years.
- 3.2 The Council, at its meeting on 15 December 2011, considered a report by the Chief Executive, Director of Corporate Services and the Director of Infrastructure Services (Report No.: 838/11). In respect of that report, the Council determined to:-
- (i) note the investment opportunity at GlaxoSmithKline, Montrose and the Council role in facilitating this;
  - (ii) agree that a loan be provided by the Council to WOW Leisure Limited in accordance with the broad conditions outlined in the report;
  - (iii) agree that the Director of Corporate Services, Director of Infrastructure Services and Head of Finance be delegated, in consultation with the Leader and Depute Leader of the Council and the Leader and Depute Leader of the SNP Group, to agree the detail of these conditions in respect of the loan with WOW Leisure Limited; and

- (iv) note that an update report for noting the outcome of the further diligence work required in relation to the loan will be brought back to an appropriate committee as soon as practicable in the New Year.
- 3.3 Following the above decision, an interest free loan of £275,000 was made to Wow Leisure Limited. This loan was the subject of a Loan Agreement requiring full repayment in certain circumstances, and obliged WOW Leisure Limited to grant in favour of the Council a Floating Charge. Full details of the arrangements entered into were provided to the Council under cover of Report No.: 113/12 considered by the Council at its meeting on 9 February 2012.
- 3.4 A further report on this matter was submitted to the Council at its meeting on 28 June 2012 (Report No.: 385/12). In respect of that report, the Council agreed to:-
  - (i) note the circumstances that led to the Council incurring professional fees costs, providing a loan arrangement to a commercial enterprise, WOW Leisure Limited, and providing a temporary suspension regarding recovery of other debts owed by the enterprise;
  - (ii) note that WOW Leisure Limited has resumed normal trading with effect from late March 2012;
  - (iii) note that in these circumstances the relevant sections of the Loan Agreement have been invoked by Angus Council and recovery of other WOW Leisure Limited debt with the Council will now recommence;
  - (iv) note a compensation claim has been submitted by WOW Leisure Limited for losses it considers it has suffered over the period of business standstill;
  - (v) note the responses provided to WOW Leisure Limited by Council officers to the contents of the compensation claim;
  - (vi) note the negotiations entered into by Council officers with GlaxoSmithKline (GSK) to recover, or achieve a significant contribution towards, the Council's financial outlays incurred in the promotion and support of the potential significant inward investment;
  - (vii) agree that the Director of Corporate Services, the Head of Law and Administration and Head of Finance be delegated, in consultation with the Leader of the Council and a member of the non-Administration, to progress the compensation claim with WOW Leisure Limited and GSK, and to make arrangements to progress the repayment of the loan facility and other outstanding debts due by WOW Leisure Limited to Angus Council; and
  - (viii) note that an update report will be submitted to Angus Council on 13 September 2012.
- 3.5 Council is asked to note that, with effect from around October 2012, WOW Leisure Limited stopped making payments of monthly rent due in terms of the Lease in respect of the Park and only recommenced these in February 2015.

#### **4. REPORT**

- 4.1 By December 2013, the £275,000 loan remained outstanding and the rent arrears due and owing (together with interest thereon) amounted to £141,206.
- 4.2 Following consideration of the options available to the Council in terms of the Loan Agreement, the Floating Charge and the Lease, it was determined that the most effective way to recover all sums due to the Council would be by raising an action for Declarator and Irritancy in the Sheriff Court to remove WOW Leisure and recover possession of the Park. This option was chosen because, effectively, there was no defence to this action for Removal as WOW Leisure Limited had not made payment of rent due in terms of the Lease (The Loan Agreement and Floating Charge being entirely separate and distinct contracts).
- 4.3 Following service of the writ on WOW Leisure Limited, the Council received Defences and a Counterclaim for the sum of £797,852. The Counterclaim was alleged to be due to Wow Leisure Limited by the Council arising from losses suffered by them as a result of not being

able to trade in the period from October 2011 to March 2012. Defences were lodged to this counterclaim asserting that Wow Leisure Limited were not due any sums from the Council in respect of the Counterclaim.

- 4.4 Following protracted procedure in Forfar Sheriff Court, decree declaring that the Lease was at an end and entitling the Council to remove WOW and recover possession of the Park was granted by the Sheriff on 5 May 2015.
- 4.5 An eviction was fixed for 26 May 2015. Following meetings with William McDonald the Director of WOW Leisure and their Solicitor, the Council agreed to consider postponing the eviction and consider exploring alternative options to resolve this matter if WOW Leisure Limited paid to the Council the sum of £140,000. This sum of money was duly paid to the Council and the eviction has been postponed meantime.
- 4.6 Officers are currently negotiating with Wow Leisure Limited to agree terms for the full repayment of the outstanding rent arrears (including interest due thereon), the loan, and legal expenses. The broad terms of the proposed agreement are as follows:-
- (i) WOW Leisure Limited will clear off the outstanding rent arrears plus interest within a period of 6 months,
  - (ii) The Council and WOW Leisure Limited will enter into a fresh Loan Agreement providing that the loan will be repaid over a period of one year following on from the final rent arrears payment.
  - (iii) In security of the fresh Loan Agreement, a Standard Security will be granted by a Director of Wow Leisure Limited in favour of the Council in respect of property owned personally by that Director,
  - (iv) A commercial rate of interest will be payable on the loan from the date of the fresh Loan Agreement;
  - (v) WOW will pay the Council's court expenses; and
  - (vi) WOW Leisure Limited will comply with all of the obligations in the Lease of the Park (including payment of rent).
- 4.7 If agreement cannot be reached on repayment of sums owed to the satisfaction of the Council then, ultimately, it may be necessary to recover possession the Park. If the Council recover the Park then it will need to put in place arrangements to operate the Park itself pending a decision on the future of the Park. There are a number of issues that arise should the Council pursue this course of action. These include:-
- (i) The employment status of staff employed by WOW Leisure Limited, having regard to TUPE Regulations,
  - (ii) The status and nature of the occupancy arrangements at the Park in respect of static caravans on the Park; and
  - (iii) Issues in relation to the ownership of fixtures and fittings and other equipment/ moveable property.
- 4.8 Finally, the number of static caravans on the Park far exceeds the number permitted in terms of the Lease. The Lease permits 20 static caravans. There are approximately 60 on the Park at present. The Council, as licensing authority under the Caravan Sites and Control of Development Act 1960, have issued a license for 94 static caravans.. However, this does not constitute the consent of the Council as Landlord under the Lease. WOW Leisure Limited have been advised of this in writing. In the course of negotiating the resolution of the financial issues referred to above, officers are seeking to resolve this issue in respect of the Lease. This may involve varying the Lease to permit the current number of static caravans on the Park (together with a consequential increase in the rent due to the Council in terms of the Lease ).

## **5. FINANCIAL IMPLICATIONS**

- 5.1 Prior to the recent part payment WOW Leisure Ltd owed the Council £488,577, this sum being made up of rent arrears, interest thereon and the original loan. A sum of £140,000 towards the rent arrears element of this debt was paid by WOW Leisure Ltd as a condition of the Council postponing eviction on 26 May 2015 so a debt of £348,577 remains outstanding at 31 May 2015.
- 5.2 As outlined at paragraph 4.6 above the eviction of WOW Leisure Ltd from the Park has been postponed for a short period to enable negotiations to take place so as to determine whether a mutually acceptable position can be achieved. In the event that these negotiations fail the Council would move to evict WOW Leisure Ltd from the Park and petition the Court to have the company liquidated as a means of recovering debt owing to the Council. In the event that eviction and liquidation are required it is very likely that much of the outstanding debt will not be recovered by the Council and would require to be written off. Clearly this would not be a good outcome for the taxpayer so all reasonable efforts will be made to try to reach a negotiated repayment solution with the Company. As members will appreciate from the scale of the debt and the time period over which it has built up there have been ongoing problems with securing payment of sums due so any negotiated solution has to protect the Council's interests.
- 6. CONCLUSION**
- 6.1 Council is asked to note progress made in recovering debts owed by the occupiers of South Links Caravan Park, Montrose, and the possibility of the Council having to recover possession of South Links Caravan Park and operate the premises pending a decision as to the future operation of the Park. Further reports will be submitted to the Council as matters progress.

**NOTE:** 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.

**REPORT AUTHOR: SHEONA C. HUNTER, HEAD OF LEGAL AND DEMOCRATIC SERVICES**  
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Date: 5 June 2015



**ANGUS COUNCIL**

**22 OCTOBER 2015**

**SOUTH LINKS CARAVAN PARK MONTROSE**

**REPORT BY ALAN MCKEOWN, STRATEGIC DIRECTOR COMMUNITIES**

**ABSTRACT**

To update Council on the actions to recover possession of the South Links Caravan Site and to seek approval for the proposed management actions.

**1. RECOMMENDATIONS**

It is recommended that the Council:

- (i) Note the action taken to recover possession of South Links Caravan Site;
- (ii) Note that residents have been consulted on the initial changes to the site management arrangements and further consultation will take place;
- (iii) Authorise the Head of Legal & Democratic Services in collaboration with the Strategic Director - Communities to enter into occupancy agreements to regulate the terms of occupancy of the caravan owners which amongst other issues would:-
  - a) prohibit residential occupation of the site and
  - b) include provision for an interim charge;
- (iv) Agree that Angus Council will run the site on the terms contained within this report;
- (v) Delegate authority to the Strategic Director – Communities to make all the necessary arrangements to ensure a smooth transition to Angus Council;
- (vi) Agree the outline Operating Budget and funding arrangements for the management of the site for the current (2015/16) financial year as outlined in the report;
- (vii) Note that an estimated operating budget for 2016/17 will be taken into account in setting the Council's overall revenue budget for 2016/17; and
- (viii) Agree that updates will be provided to Angus Council Communities Committee as required.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN**

This report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Communities that are prosperous and fair

- Communities that are learning and supportive
- Communities that are safe and strong
- Communities that are caring and healthy

### **3. BACKGROUND**

- 3.1** Report No 248/15 updated Council on the pursuit of significant debts owed to the Council by WOW Leisure Ltd and advised of the possibility that Angus Council may have to recover possession of South Links Caravan Park and operate the premises pending a decision as to the long- term future operation of the Park; and that further reports will be submitted to the Communities Committee as matters progress.
- 3.2** Agreement with the owners of WOW Leisure Ltd on repayment of the debts owed to the Council on terms acceptable to both parties could not be reached so on 25/26 August Angus Council appointed Licenced Insolvency Practitioners, Begbies Traynor, as Administrators to WoW Leisure Ltd ("WOW"). On 4<sup>th</sup> September the Administrators relinquished management of the South Links Caravan site as they accepted that WOW had no right or title to continue running the site following the end of the Lease and Angus Council assumed the management role of the caravan park.

On 4 September Senior Officers of Angus Council were on site to meet with residents and to assess the immediate needs to provide reassurance to those who were on site and those who have purchased caravans or chalets. Many occupants of the site expressed their concern for site security and as a result the site was secured with 24hr cover. Residents were informed that Angus Council would be assessing the site and would take necessary actions to ensure the site was safe and secure for residents.

### **4 CURRENT POSITION**

- 4.1** Since 4<sup>th</sup> September Angus Council have reduced the security on site to night time security from 8 pm to 8 am with staff from Montrose Leisure Centre being on site from 8 am to 8 pm. This arrangement has prevented unauthorised access to the site on a number of occasions and provided reassurance to those on the site. On Thursday 10<sup>th</sup> September officers of Angus Council met with owners and site residents in Montrose Town Hall and the information at **appendix 1** was worked through with those present. A number of pieces of information were provided by residents enabling a better picture of the site operation to be developed and also a better insight into the aspirations of those present. This meeting is being followed up by a questionnaire and assessment of the condition and needs of the site. At this stage the key areas are security and health and safety as a result of unauthorised dumping of building material on the site.

### **5.0 NEXT STEPS**

- 5.1** The interim arrangements have, so far, delivered a balance between the necessary immediate actions to manage a crisis situation and preparation for a more stable management arrangement capable of delivering for both those who visit the site on a touring basis and those owning a caravan or chalet as a holiday home. In assessing the next steps the following key issues are important to bear in mind:
- i. The site was licensed for holiday use only for 12 months and not for residential occupation; the site accordingly has a 12 month touring and holiday potential made up of short term touring and holiday lets.
  - ii. Notwithstanding the previous point, it will be necessary to carry out an examination of the occupancy rights of all persons currently on the site as quickly as possible to ensure that the above conditions have been complied with by the previous management.
  - iii. Angus Council is a statutory body and must comply with all statutory and licence obligations. Angus Council has taken enforcement action on other sites that have

breached this licensing condition and residents have been informed that 12 month residential occupation is not favoured by Angus Council;

- iv. It may transpire that some residents occupy the site on a residential basis and see their caravans/chalets as their primary residence. This is in contravention of the site licence and lease. It has also become clear that many residents have purchased their caravans without the benefit of legal advice, as one would when purchasing a home, some purchasers have paid in cash and some have provided other property and assets in part exchange for their caravans;
- v. Many residents have expressed their wish to remain on the site and would appreciate clarity in relation to their future occupation.

## **5.2 Site Security**

In terms of site security the immediate actions taken were to close off one of the two areas of entry and egress. This was met with resident approval and it is proposed to make that situation permanent and to control entry and egress on the site from one route. In addition the night time security has provided reassurance for residents but that is expensive and cannot be sustained in the long term. It is recommended that a controlled entry and egress barrier is installed with residents being given a card to control the barrier. This will enable removal of the night time security arrangements. The costs of this are estimated at circa £12,000 but over the long term are considerably lower than a staff based option. These costs will be contained within Directorate budgets or partially recovered from a mid-year charge to residents.

In addition temporary CCTV in the form of the redeployable CCTV is in situ and it is recommended that this is retained until May 2016 and additional proportionate CCTV is installed in and around the office area which is beside the entry point to the site.

Owing to the immediate concerns of the residents and information received during the handover site security as highlighted above has been utilised. This has provided site users with reassurance and ensures the site has remained safe and secure. This has cost £5,000 to date with the estimate of manned security cost of £9,400 until installation of the barrier.

## **5.3 Health and Safety**

It is normal that in the circumstances where Angus Council takes possession of an asset such as South Links Caravan Park where the asset is not warranted that the Council would seek to satisfy itself of the condition and quality of the installations to ensure compliance with relevant Health and Safety legislation and insurance requirements. These have majored on electrical testing and safety, hook up repairs, play park equipment testing and removal, fire alarm testing, fire maintenance testing, dealing with fly tipping, changing locks, work on drains, the septic tank and provision of janitorial supplies for the toilet blocks. The costs of this are estimated to be £15,440.

## **5.4 Fly Tipping**

In addition, just as the site was being finally reposessed there was an incident of fly tipping. This has been subject of a report to the Scottish Environmental Protection Agency (SEPA) but it is not anticipated any action will be taken. Given the materials and the position of where and how they have been dumped these have had to be removed to protect seasonal touring caravans and also to tidy up the site. The costs of this are in the region of £2,000.

## **5.5 Play Park**

As part of the site survey the playpark was assessed and closed down and removed as it was in a poor state of repair. The costs for this were £1,800.

## **5.6 Other Costs**

A detailed breakdown of the costs and estimated operating budget are attached at **appendix 2**, broken down by spend to date, estimated spend to 31 March 2016 and a full years estimated operating budget. Members should note these have been essential works to protect the site and residents and ensure compliance against a range of pieces of legislation, health and safety, environmental, building standards and Angus Council's duty of care.

## **5.7 Further Planned Works**

As part of the assessment, the needs of the site have been detailed within **appendix 3**. It is not proposed that at this time the workshop is demolished rather it is simply made secure whilst a longer term review of the site is conducted. The essential costs will require investment of circa £30,000. Members will note that a number of these elements are needed to ensure the site is capable of being run as a going concern and to bring in income and secure the site for use as a tourist destination,

## **5.8 Ongoing Management and Maintenance**

On the basis that members wish to continue to ensure the provision of the site in Montrose, arrangements will need to be made to ensure the site is staffed and maintained. To do this the staffing model previously operated by Angus Council is recommended with an onsite warden who runs and maintains the site. The costs of this are two staff at LG3 totalling £37,978 on a full year basis, but with an allowance for cover and additional hours total staff costs have been estimated at £40,978.

## **5.9 Recovery of Cost Incurred**

Members are referred to the costs associated with the site for the remainder of the year 2015/16. Taken from **appendix 2** the costs are around £65,000. Residents have been made aware that some recovery of costs is being considered by Angus Council. It is appreciated that residents paid site fees, in advance, for the full year of around £1,950 per site (net of VAT). It is proposed that residents' entitlement to occupy is checked and that they are asked to sign up to new agreements which would regularise their occupancy and provide that this part-year payment is made by the residents to recover the monies spent on the site. It is acknowledged that this will put pressure on residents. In recognition of the fact residents have invested their own time and effort in maintaining areas of the site, including the toilet blocks, the costs recorded as recoverable have been contained as at appendix three. There are 57 static caravans on site and 25 seasonal pitches. The apportionment per pitch is £790. Members are asked to approve this one-off in year charge.

## **5.10 Ongoing site fee levels**

The above arrangements are interim and the issue of fee level for the year 2016/17 remains to be established. It is proposed to set that rate as part of this process to provide residents with security for the year ahead. Given that residents will have paid the in year additional payment, it is proposed to freeze payments at the price paid by residents in 2015/16. This reflects the circumstances of the residency agreement set out below. Members are asked to note that the fees exclude VAT and are not inclusive of gas and electric charges which are paid through card meters. The fee level for 2016/17 is proposed to be £1,950 (net of VAT). If occupancy levels remain stable, this will generate in the region of £127,920. Touring pitch income would be separate but it is suggested that pitch per night is set at £20.83 (net of VAT) which would generate income of £52,595, giving total income of £180,515 per annum. Members are asked to note that should occupants decide to leave the site, provided they can prove they own their caravans, this will reduce anticipated income. Income will also be at risk should residents or touring caravans feel the site is not of a sufficient quality.

## **5.11 Lease Agreements with Residents**

There is a concern that some occupiers may be occupying caravans as their only or main residence. This is a contravention of the site licence and is not considered appropriate for this site. Members need to consider whether residential occupation will be tolerated on the site. The relevant legislation comprises the Caravan Site and Control of Development Act 1960, The Caravan Sites Act 1968, and the Mobile Homes Act 1983. Collectively these Acts protect *residential* occupiers of caravans on protected sites from eviction. Residential occupiers are

people who occupy the caravans as their only or main residence. Officers are in the process of gathering information to establish how many (if any) residential occupiers are on the site. It should be noted that residential occupation is not prevented by e.g. closing the site for one month or by caravan owners going to stay with friends or family. It is dependent upon the caravan being the only or main residence of the occupant.

There are currently no agreements between the Council and the caravan owners. Any agreements they formerly had with WOW are at an end. This means that the Council cannot charge fees or lawfully regulate the occupation of any caravan owner on site at present. The Council requires to enter into new agreements with all the caravan owners and it is proposed that these agreements will, amongst other clauses, provide for interim charges to be imposed and prohibit residential occupation of the site. The new agreements with all the existing owners will require to state specifically that the agreement is for holiday use only. If the existing caravan owners decline to enter such agreements, and continue to occupy the caravans as their only or main residence, the Council will require to apply to the Court to have them removed. If the Council tolerates residential occupation, or turns a blind eye it risks creating implied agreements which may then be subject to statutory protection.

The length of any occupancy agreement will be determined by individual circumstances but it is proposed that the normal length will be restricted to 11 months. However, where caravans are let for holiday lets and there is no risk of residential occupation being established, it may be fairer to extend the agreement to 2 or 3 years to enable future holiday lets to be booked.

It is proposed that wherever possible, a standard agreement will be adopted for example that used by the Office of Fair Trading to enable speedy completion of all lease agreements and to minimise costs.

If Member's agreed to this course of Action, the site will close in the month of February for static caravans and this condition will be strictly enforced. The touring site may however open should there be bookings that warrant that.

## **6. FINANCIAL IMPLICATIONS**

### 2015/16 Budget

- 6.1 As outlined in Appendix 2 the costs incurred by the Council in dealing with the immediate repossession of the site and the expected costs of running the site to 31 March 2016 are approximately £125,000. The proposed charge to residents as explained in paragraph 5.9 is estimated to yield income of £59,000 leaving an estimated net cost of £66,000.
- 6.2 No provision in existing budgets has been made for these costs given the Council was not expecting to have to resume management of the site when the budget was set but it will be feasible to contain these additional costs within the existing 2015/16 Communities revenue budget based on the latest monitoring projections.

### 2016/17 Budget

- 6.3 Appendix 2 indicates an estimated operating surplus for the 2016/17 year of £82,000. This estimate will be firmed up over the coming months as part of preparing the Council's overall revenue budget for 2016/17 and will reflect the outcome of discussions with Angus Alive on the Trust potentially taking on the running of the Caravan Park.

### Administration Process & Potential Recovery of Debts

- 6.4 Report 248/15 outlined the scale of debts owed at that time by WOW Leisure Ltd to the Council. These primarily comprised unpaid rent of circa £74,000 and a loan of £275,000 (£349,000 in total).
- 6.5 As part of the Administration process the Council has been required to estimate the total amount it is due. This comprises the unpaid loan, unpaid rent, default interest thereon plus the Council's costs from the Court process. In total a claim of £409,500 has been made to the Administrators of WOW Leisure Ltd as the amount due to the Council. Whilst it is too early to

know the outcome of the Administration process the Council is unlikely to see much if any of that sum recovered.

- 6.6 Given the ongoing problems the Council has had with getting payment from WOW Leisure Ltd over the last couple of years the loan and rent arrears element of the total sum claimed by the Council has already been written off for accounting purposes so there is no impact on the Council's current financial position/reserves. Non recovery of most or all of the sums due (if that is the outcome of the Administration process) would nevertheless represent a significant loss to the Council and local taxpayer.

## **7. RISKS**

There are a number of risks associated with the project. These are set out below:

- 1) Wherever possible the council should seek to avoid allowing the site to become a "protected" site in terms of the previously mentioned legislation as that would oblige the council to permit the residents permanent occupation with rights of succession and would alter the occupancy of the site away from a tourist facility.
- 2) The council should try and ensure consistency of approach in the management of the caravan sites within its ownership
- 3) By taking over the management of the South Links Caravan Park, the council will require to consider the long-term investment needs of the site or whether a further lease arrangement will be entered into with an independent managing company who would provide the necessary investment. If Angus Council continue to manage the caravan site, an analysis of the advantages (and possible conditions) of it passing over to Angus Alive to be managed along with the other services currently being considered for transfer would require to be carried out.
- 4) If management of the site does not meet with the expectations of existing residents, they may decide to locate their vans elsewhere thus reducing the possible income available to run the site.

All of the above risks will be managed to ensure the lowest level of exposure to risk by Angus Council.

## **8. OTHER IMPLICATIONS**

### **8.1 Tourism**

If the site is not run as a going concern in some format, there will be a negative impact on the tourist draw of Montrose and possible impacts on existing tourist facilities and tourism spend in Montrose and its hinterland. The site has shown itself to be popular as a touring destination during the time of administration and it is hoped to build on that if members agree to keep the site open and run it as a going concern.

### **8.2 Resident Impact**

It has become clear that the site has a settled feel and the static site requires relatively limited input with residents taking pride in their vans and their environment, even freely helping to maintain elements of the site. Many residents have expressed their desire to remain on the site in some capacity and there is clearly both a connection and loyalty to the area. As noted earlier some people have clearly bought static caravans to run as a letting business and Angus Council has no desire to forcibly bring that to an end as long as all legal and financial responsibilities are properly discharged. It is also evident that retaining an element of trust and good will from residents will enable them to remain on site and contribute to the long term success of the site through their ongoing efforts and payment of site fees.

### **8.3 Angus Alive**

Coming at this time, the change to the site management presents a challenge to Angus Council that is over and above the immediate needs of securing, and operating the site. The previous management arrangements were vested in the (now) Services To Communities part of the Council and their remains expertise and experience in this business area. It cannot however, be taken as read that Angus Alive will want to operate the site. If this report is agreed and a non-detriment arrangement is negotiated, it would be a sensible arrangement but will require discussion with the Angus Alive Board in the run up to 1 December 2015.

### **8.4 Investment Needs**

The touring element of the site is in need of review and investment. Many touring sites have seen significant investment, Forfar being an example, and this has enhanced their popularity and ability to attract touring caravans. The South Links site will be fully reviewed and its long term investment needs costed and beyond this initial period and the next year a long term business plan developed.

## **9. CONSULTATION**

- 9.1** The Chief Executive, Strategic Director – Resources, Head of Corporate Improvement and Finance, Head of Legal and Democratic Services have been consulted on the terms of this report.

## **10. CONCLUSION**

This report and the scenario of repossession coupled with the need to stabilise arrangements presents significant challenges for residents and Angus Council. At the meeting with site residents their concerns were clearly expressed. There is no doubt they carry a mixture of fear for the future of their accommodation, the assets they have purchased, many in cash transactions, and a desire to remain on site and in Montrose and for those who let their caravans out, a stable platform for that to continue.

This report seeks to provide residents with occupancy that, whilst much shorter than the long term 30 year leases previously offered, provides rolling leases and a commitment that whilst the site does not lose money it will be operated to professional standards with openness and transparency. This report provides for site operation, site security, resident stability and clarity of position and the prospect of assessment of investment needs for a longer term operation of the site.

**NOTE:** No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

**REPORT AUTHORS:** Alan McKeown – Strategic Director Communities/Alastair Wilson, (Interim) Head of Services to Communities

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## **Appendix 1**

### **South Links Holiday Park**

#### **Caravan owners meeting with Angus Council representatives – Question & Answers 10 September 2015**

##### **Why has this situation arisen?**

WOW Leisure Ltd the former operator of the South Links Holiday Park did not meet the lease conditions for the site and failed to make significant payments due the council (the landowner)

The council has made repeated efforts to resolve the situation with WOW Leisure Ltd, we have been unable to do so.

##### **What action has the council taken?**

When we could not reach a resolution with the company took Decree for eviction against the company in May. We hoped that this action would have prompted the company to settle its debt with us but while a payment was eventually made in May, over £353,000 is still owed.

The Decree for eviction was granted on 7 May. This resulted in the lease with the company being terminated.

The granting of the decree also brought to an end any agreements entered into by the company with you, the occupiers of the caravans on site.

As of May WOW Leisure had no title to continue occupation of the site. The council finally had Administrators appointed for WOW Leisure Ltd, to assess the business operations and recover any assets.

##### **Why was an agreement not reached with the company?**

WOW Leisure's proposals demanded the installation of around 30 additional static caravans.

This would have resulted in a total of 94 vans. That was more than three times the number permitted in the lease.

This would have been detrimental for the site and was in breach of the lease. The council could not meet this demand

##### **Why did the council use an Administrator?**

As proprietor of the site the council held a security over it and we were entitled to appoint an Administrator when the company failed to make payment of sums due to us.

The Administrator is investigating where all the money has gone, how the business was run, what the assets of the business are/were, to see if any money can be returned to the council and others to whom money is owed.

##### **Has Angus Council taken over running the site?**

Yes. As of Friday 4 September Angus Council is responsible for running the site.

##### **What role do the Administrators have now?**

The Administrators are continuing to examine all the financial details and assets of the company, WOW Leisure Ltd, to see if there is any money that can be recovered to meet the creditors' debts.



**The Administrator said he wants to speak to caravan owners - why is that?**

Amongst other aspects of examining the business the Administrator has to satisfy himself who owns the assets on the site, including the static caravans, lodges and mobile homes.

This is why he needs to gather this information from you as individual occupiers.

**What information do you need from us?**

It would be very helpful to have as much information as you can provide.

We will be asking you on a plot by plot basis, what van you have, who owns it, details of that ownership, how long you stay in the van, details of current rent and other charges.

We will also be asking about payments you have made, and if you have any legal agreements or other agreements and documents with WOW Leisure Ltd.

Finally it would be helpful to have details of maintenance records, especially gas boiler checks.

**Why is all of that information needed?**

Understanding ownership issues, payment details and patterns will help the Administrator conclude their onsite work.

It will also help Angus Council know what your agreement says about your entitlement to be on site and on what basis so we can help you and to help us develop a new running model for the site.

**If we have paid WOW Leisure Ltd or Mr McDonald our site fees for the year in advance, will Angus Council ask us for any money?**

We cannot rule that out but at this stage we are still gathering information.

The council has already spent some money on emptying the septic tank, which has been installed badly and will need fixed and on security measures and we will need to ensure the grass etc is cut.

A number of you have helped by cleaning the toilet blocks etc and help keep the site clean and tidy so we will take that into account.

Whatever position we reach we will do that in a clear and transparent manner but no decisions have been made.

**I thought I owned the ground my van is on, is that the case?**

We understand that some of you believe, having paid a substantial sum for the plot your van is on, that, as a result, the plot is yours. We will speak to you about this and will want to see any documentation you have.

However we must advise you that the land is owned by Angus Council and it is not and has never been for sale. Mr McDonald could not sell any of the land as he never owned it.

**What about the agreements we had with WOW Leisure Ltd?**

We would like to see those agreements but as of 7 May, when the court granted the eviction of the company, those agreements had no legal basis.

**Will we get new agreements with Angus Council?**

Yes, a new agreement will be drawn up. It will draw on good practice from areas such as the Office of Fair Trading, Which and various trade bodies such as National Association of Caravan Owners.

**How long will my agreement be for?**

The agreement will be for 1 year but at this time will be renewed each year for 1 year. **If you have not already done so, you should seek independent legal advice on this issue.**

**The site has 12 month opening, can we stay here for 12 months of the year?**

We understand some people on site may have been residing permanently on the site. If that is the case, this was contrary to the site Licence held by WOW Leisure Ltd. The site was licensed for holiday use only for 12 months and not for residential occupation.

Angus Council is a statutory body and must follow the law. We have taken enforcement action on sites that have breached this law and we will not allow 12 month residential occupation. **You should seek independent legal advice on this issue.**

**Where will we go?**

As the law requires, you should have a principal residence off site and that is where you should return to. **You should seek independent legal advice on this issue.**

**I am currently trying to sell my van, what do I do?**

At this time you should clear any proposals to sell your van with the Administrator. You can sell your van but you must be clear with any seller regarding the site rules and the van must of course be yours to sell. **You should seek independent legal advice on this issue.**

**SITE OPERATIONS****Does Angus Council intend to run the site or have someone else run it?**

At this stage we will run the site whilst information is gathered.

It may take weeks, if not months, to assess that detailed information.

**How will you run it?**

We are currently looking at the options for that.

**Will staff be at the site office?**

Yes, you have already told us you prefer staff to be there later in the day and we will continue to talk to you to work out the best hours for that to enable you to raise any questions you have.

**If I need an electric card where will I get it?**

You will get these and pay for it at the sports centre.

**What about our mail?**

That will be delivered to Montrose Sports Centre which is open seven days a week between 7am and 10pm.

**WHAT HAPPENS NEXT?**

Angus Council will be assessing the site and identifying any areas where work that needs to be done. Angus Council will assist the administrator to conclude its on-site work. We will be in touch with you to get full detail of you and anyone else in your van to help develop the management programme for the site, the new agreements with Angus Council.

This has been a rapidly changing situation and I appreciate you may be very concerned about your individual circumstances. I assure you that we are mindful of these concerns and we will keep you informed when we have further information to share. This will be done by letter and, as needed, through meetings like this.

## CONTACTS

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## Appendix 2 - Operating Budget

### SOUTH LINKS CARAVAN PARK, MONTROSE

	Actual to September £	Projection October to March '16 £	2015/16 Projected Outturn £	2016/17 Budget Estimate £
<u>Staff Costs</u>				
MSC - cover	2,100	9,410	11,510	3,000
Wardens		3,164	3,164	37,978
	<u>2,100</u>	<u>12,574</u>	<u>14,674</u>	<u>40,978</u>
<u>Property Costs</u>				
Building Maintenance	3,970	8,800	12,770	7,000
Building Repairs - Compliance	5,340	10,100	15,440	2,000
Building Improvements		30,000	30,000	0
Grounds Maintenance	3,578		3,578	8,000
Rates		9,520	9,520	16,320
Electricity		3,500	3,500	6,000
Gas		1,150	1,150	2,000
Insurance		250	250	1,000
	<u>12,888</u>	<u>63,320</u>	<u>76,208</u>	<u>42,320</u>
<u>Supplies &amp; Services</u>				
Site Security/Barrier	5,000	16,400	21,400	0
Inspection/Legal Fees		5,000	5,000	5,000
Telephone/IT	0	4,650	4,650	2,160
Materials / Provisions	500	100	600	2,500
Commercial Waste		2,441	2,441	6,517
	<u>5,500</u>	<u>28,591</u>	<u>34,091</u>	<u>16,177</u>
<b>Total Expenditure</b>	<b>20,488</b>	<b>104,485</b>	<b>124,973</b>	<b>99,475</b>
<u>Income</u>				
Pitch Income	0	58,940	58,940	180,515
Laundry Income	0	250	250	1,000
	<u>0</u>	<u>59,190</u>	<u>59,190</u>	<u>181,515</u>
<b>Net Cost/(Income)</b>	<b>20,488</b>	<b>45,295</b>	<b>65,783</b>	<b>(82,040)</b>

### Appendix 3 – Assessment of Need

**Table 1 - Work Carried Out to Date**

<b>Description</b>	<b>Actual £</b>
Electrical inspections and testing	4,000
Hook up repairs	2,000
Service to Boiler	200
Empty Septic Tank	300
Unblock drain and replace drain cover	370
Fit new locks	500
Remove old diesel tank	300
Breezeblocks and Plywood	150
Repairs to Laundry Equipment	200
Replace faulty lamps in toilets	200
Supply and install card reader	450
Fire Appliance Maintenance	58
Water testing	466
Fire Alarm and Emergency Lighting Test	105
Janitorial Supplies	500
Staff Costs	2,100
Make Play Area Safe	1,800
Weed Killing	786
Grass Cutting	992
Waste Collection	0
Security Guard Provision	5,000
<b>Total</b>	<b>20,477</b>

**Table 2 - Works to be Carried Out**

<b>Description</b>	<b>Estimate £</b>
Barrier	12,000
XN Till System	1,000
Installation of Emergency Lights	3,100
Further Electrical repairs	5,000
Workshop Demolition	30,000
Removal of Rubble	2,000
Radio Survey	350
Broadband Connection Via Radio Link	3,300
Additional Security Lighting	1,000
Further Works To Septic Tanks	1,000
Fire Risk Assessment Actions	5,000
Waste Collection	2,441
Insurance Costs	1,000
<b>Total</b>	<b>67,191</b>

