

Agenda Item No

Report No 818/99

ANGUS COUNCIL

PLANNING AND TRANSPORT POLICY COMMITTEE

26 AUGUST 1999

**SUBJECT: NOTIFICATION OF PROPOSED SALE:
BLACK BINKS, DRUMSHADE, HOLE AND CRAIGWHAUT PLANTATIONS**

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

Abstract: Angus Council has been invited to enter into a Management Agreement in respect of 4 No. woodlands near Backwater Reservoir. This report assesses the benefits and recommends that the offer be declined.

1 RECOMMENDATION

It is recommended that the Committee agrees to decline the invitation to enter into a Management Agreement for Black Binks, Drumshade, Hole and Craigwhaut Plantations.

2 INTRODUCTION

- 2.1 Under guidelines agreed with COSLA the Forest Enterprise, an agency of the Forestry Commission has notified Angus Council of its intention to sell four plantations to the north of Backwater Reservoir, between Glen Isla and Glen Prosen.
- 2.2 Forest Enterprise has invited Angus Council to enter into a Management Agreement to secure continued public access. The Commission has offered to pay the reasonable legal and other out-of-pocket expenses incurred by the Council entering into an Agreement.

3 MANAGEMENT AGREEMENT

- 3.1 The cluster of four woodland blocks together cover some 158 ha and are predominantly conifer plantations. As far as has been ascertained, public access is only enjoyed along one established public right of way from Glenhead Farm through Drumshade Plantation and on to Glen Prosen.
- 3.2 The Agreement would be intended to permit the public to enter the woodlands for the purpose of free informal quiet enjoyment. The Agreement would also confer a number of rights and responsibilities to Angus Council in respect of providing for and managing access to the woodlands for example, gates, stiles, waymarking and surface improvements. The Council would however have a responsibility to maintain these and to make such arrangements for ranger service coverage if it is reasonably necessary to safeguard the rights and interests of the owner and the general public.
- 3.3 The Director of Law and Administration advises that the Council would become liable under the Occupiers Liability (Scotland) Act 1960 for any loss, injury or damage attributable to the Council's failure to take reasonable steps to maintain subjects.

- 3.4 The woodlands under consideration are relatively remote and as such are unlikely to attract significant public usage to justify infrastructure improvements and associated but unquantified Council expenditure. Furthermore access to the woodlands would also involve use of paths not currently maintained by this Council. Clearly it would not be acceptable for the Council to carry out works within the woodlands without ensuring that the means of access to the woodlands was acceptable and free from hazard. There is currently no identified Council budget to cover such costs.
- 3.5 In context, it is worth noting that the Scottish Executive have recently published a White Paper titled "Land Reform - Proposals for Legislation." This includes a 'right of access' which will allow the public to enter upon land or water for the purposes of informal recreation and passage. In addition provision is likely to be made for local authorities to maintain and promote routes.
- 3.6 In addition an Angus Access and Recreation Strategy is currently under preparation which will establish a policy framework for dealing with the provision of access within Angus.
- 3.7 Therefore the remote location; limited public usage; financial and public liability implications and impending legislative changes indicate that there is insufficient public benefit to justify the Council entering into a formal Agreement.
- 3.8 It should however be noted that the existence of a public right of way is not threatened by not entering into an Agreement. Indeed the Countryside (Scotland) Act 1967 entitles the Council to repair and maintain public rights of way if it deems fit.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications upon the Council as a result of this report.

5 CONSULTATIONS

- 5.1 The Chief Executive, Director of Finance, Director of Recreation Services and Director of Law and Administration have been consulted in the preparation of this report.

6 CONCLUSION

- 6.1 There is considered insufficient public benefit to accept the invitation to enter into a Management Agreement.

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.

AA/SJR/SP

20 August 1999

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Director of Planning and Transport