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DUNS COMMON GOOD FUND SUB-COMMITTEE WEDNESDAY, 15 DECEMBER 2021

A MEETING of the DUNS COMMON GOOD FUND SUB-COMMITTEE will be held VIA
MICROSOFT TEAMS on WEDNESDAY, 15 DECEMBER 2021 at 12.00 noon

J. J. WILKINSON,
Clerk to the Council,

8 December 2021

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	Minute. (Pages 3 - 4) Consider Minute of Meeting held on 2 September 2021 for approval and signature by the Chair. (Copy attached.)	2 mins
5.	Consultation on Heritable and Moveable Asset Registers (Pages 5 - 12) Consider Report by Principal Solicitor. (Copy attached.)	20 mins
6.	Any Other Items Previously Circulated.	
7.	Any Other Items which the Chairman Decides are Urgent.	

NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Membership of Committee:- Councillors J. Greenwell (Chairman), D. Moffat, M. Rowley and Community Councillor A. Mitchell

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**SCOTTISH BORDERS COUNCIL
DUNS COMMON GOOD FUND SUB-COMMITTEE**

MINUTES of Meeting of the DUNS
COMMON GOOD FUND SUB-COMMITTEE
held via Microsoft Teams on Thursday, 2
September 2021 at 5.00 pm

Present:- Councillors J. Greenwell, D. Moffat and M. Rowley

Apologies:- Community Councillor A. Mitchell

In Attendance:- Director - Finance & Corporate Governance, Clerk to the Council.

1. **MINUTE.**

Copies of the Minute of Duns Common Good Fund Sub-Committee meeting of 3 September 2020 had been circulated.

DECISION

AGREED to approve the Minute for signature by the Chairman.

2. **MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2021 AND PROPOSED BUDGET FOR FINANCIAL YEAR 2021/22**

There had been circulated copies of a report by the Director - Finance & Corporate Governance providing details of the income and expenditure for the Duns Common Good Fund for the year 2020/21 including balance sheet values at 31 March 2021 and proposed budget for 2020/21. Appendix 1 to the report provided the actual Income and Expenditure position for 2020/21 which currently showed a surplus of £523 for the year, which was better than the previously reported surplus on 20 April 2021, due to an improvement in the return from the Aegon Asset Management Fund. Appendix 2 to the report contained a balance sheet value to 31 March 2021 and showed an increase in the reserves of £3,244, partly due to the unrealised loss on the Aegon Asset Management Fund. Appendix 3 to the report showed the value of the Aegon Asset Management Fund to 31 March 2021. In response to a question regarding cash available, the Director – Finance & Corporate Governance explained that £2,300 was available or the cash investments with Aegon could be realised so it was ultimately up to the Sub-Committee to decide what to do. In terms of income during the year, the dividend could be used but in order to preserve the Fund's capital assets the income helped with the running costs. The net funds available to disburse without impacting on capital would be £523, which was the surplus for the year 2020/21.

DECISION

AGREED to:

- (a) **note the actual income and expenditure for 2020/21 as detailed in Appendix 1 to the report;**
- (b) **approve the proposed budget for 2023/22 as shown in Appendix 1 to the report;**
- (c) **note the final balance sheet value as at 31 March 2021, and projected balance sheet value as at 31 March 2022 in Appendix 2 to the report; and**

- (d) note the current position of the investment in the Aegon Asset Management Investment Fund in Appendix 3 to the report.

The meeting concluded at 5.15 pm

Consultation on Heritable and Moveable Asset Registers for former Burgh of Duns

Report by Principal Solicitor

Duns Common Good Fund Sub Committee

15 December 2021

1 PURPOSE AND SUMMARY

- 1.1 This report is to seek approval of the draft Common Good Registers for the former Burgh of Duns and to advise on the next steps in the process for consultation and publication under the Community Empowerment (Scotland) Act 2015.**
- 1.2 Under the Community Empowerment (Scotland) Act 2015 the Council is required to establish and maintain a register of property which is held by the authority as part of the Common Good ("a Common Good Register"). Before establishing a Common Good Register, the Act requires The Council to publish a list of property that it proposes to include in the Register and consult the public on this list.
- 1.3 Council approved the process for compliance with the Community Empowerment (Scotland) Act 2015 on 31 January 2019, and since that date work has been ongoing in consolidating all information held in respect of heritable and moveable Common Good assets.
- 1.4 From the work carried out, a draft list of assets considered to be a complete list of heritable and moveable assets held by the Duns Common Good has been prepared, and is produced at the appendix to this report.

2 RECOMMENDATIONS

2.1 I recommend that the Sub-Committee:-

- (a) Approves the contents of the draft list of heritable and moveable property assets held by the Council within the former Burgh of Duns;**
- (b) Approves the publishing of the draft list to be made available for public consultation for a period of at least twelve weeks;**
- (c) Notes that following the period of consultation all comments will be brought to the Common Good Fund Sub-Committee for their consideration.**

3 BACKGROUND

- 3.1 Under the Community Empowerment (Scotland) Act 2015 the Council is required to establish and maintain a register of property which is held by the authority as part of the Common Good ("a Common Good Register"). Before establishing a Common Good Register, the Act requires the Council to publish a list of property that it proposes to include in the Register and consult the public on this list.
- 3.2 Common Good property is property which was owned by the Common Good funds of the former Burghs of Scotland. On the abolition of the Burgh system in 1975, Common Good funds were preserved, and the assets which formed part of these funds remained so. In order to identify which assets form part of the Common Good today, consideration needs to be given to the date and method of acquisition; the use and purpose of the asset; and the historical treatment of the asset in the Council's accounts.
- 3.3 In respect of Duns this information has been prepared through: consolidating the original inventory held by the Scottish Borders Council; collaboration and consultation with the Duns Common Good Fund Sub Committee; collaboration and consultation with Live Borders in relation to potential items held by them; reference to Minutes of Burgh meetings; reference to original title deeds; and reference to the historical minute books from the Heritage Hub in Hawick.
- 3.4 From the work described above, a draft list has been prepared, which is contained at the appendix to the Report.

4. CONSULTATION

- 4.1 This report seeks approval of the draft asset list annexed. Following such approval, the list will be published on Citizen Space, together with a consultation survey. The survey will seek representations on (i) whether a proposed asset should be included as part of the Common Good; or (ii) whether there should be other assets included in the Common Good asset list.
- 4.2 The intention is to publish the consultation survey before the end of December 2021. In addition to the electronic survey, the proposed lists of Common Good assets will be published on the Council's website and paper copies shall be made available, free of charge, on request. Notification advising of the publication of the lists and the consultation period will be made on the Council's website and social media. Further, the Council will make all of the Community Councils and other community bodies aware of the publication of the proposed Common Good Asset lists and will invite those community bodies and the public to make representations in respect of these lists.
- 4.3 The statutory minimum period for consultation is twelve weeks. However, it is suggested to extend this period until the start of April 2022.
- 4.4 After the consultation period, the Council will publish all representations received. The Common Good Fund Sub-Committee will then reconvene to consider any representations made, and to agree the finalised Asset Register. The finalised Asset Register will then be published within six months from the end of the consultation period.

- 4.5 It is possible that following this process, further assets may be identified as being Common Good, and where that is the case, the Council will update the Common Good Asset Registers. The Registers will similarly be updated if existing property is disposed of or reclassified. The Council will also ensure that the Common Good Asset Registers are reviewed on a regular basis, and at least every five years.

4 IMPLICATIONS

4.1 Financial

There are no direct costs attached to implementing any of the recommendations contained in this report. However, the Council has a duty to ensure the accuracy of the Council's accounts. It is therefore important that any assets which should properly be classified as being Common Good are contained within the Common Good Registers, and therefore the Common Good Accounts.

4.2 Risk and Mitigations

The Council's primary aim is to ensure compliance with Part 8 of the Act in respect of Common Good assets. If the Council fails to comply with the duties contained in Part 8 of the Act it will be in breach of the legislation and the Council may be subject to adverse public comments and legal challenge. The risk is mitigated by considering this report and the Council carrying out the actions detailed herein.

4.3 Integrated Impact Assessment

Steps will be taken to ensure that the proposed consultation is accessible to all. These steps include the publication of the consultation in paper copy to be available at multiple locations, as well as the availability of large-type formats.

4.4 Sustainable Development Goals

There are no economic, social or environmental effects in accepting or rejecting the recommendation

4.5 Climate Change There are no effects on carbon emissions in accepting or rejecting the recommendation.

4.6 Rural Proofing

This is not a new policy matter.

4.7 Data Protection Impact Statement

The proposed consultation will involve the processing of personal data. The legal basis for this processing is the undertaking by the Council of tasks carried out in the public interest. Privacy statements outlining the use and retention of personal data provided by any responders to the consultation shall be provided at the point of data submission.

4.8 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Council Schemes of Administration or Delegation

5 CONSULTATION

5.1 The Director Finance & Corporate Governance, the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director People, Performance & Change, the Clerk to the Council and Corporate Communications have been consulted and comments received have been incorporated into the final report.

Approved by

Director of

Signature

Author(s)

Name	Designation and Contact Number

Background Papers: Nil

Previous Minute Reference: Nil

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Anne Isles can also give information on other language translations as well as providing additional copies.

Contact us at Anne Isles , Legal and Licensing Services Manager, Council Headquarters, Newtown St Boswells , 01835 825002 T or email aisles@scotborders.gov.uk

BURGH OF DUNS

LAND			
Name of Asset	Location	Description	Plan
Showground public car park	The Square, Duns, TD11 3ED	Open area since the mid-19 th century. Exact date of acquisition unclear as there appears to be no title deeds for the land.	 DN010-02 Showground Car Park
COMMON GOOD FUND			
Name of Asset	Location	Description	
Duns Common Good Fund	N/A	Fund set up for the benefit of the inhabitants of Duns. As at 31 March 2021, fund consisted of net assets of £19,588.	

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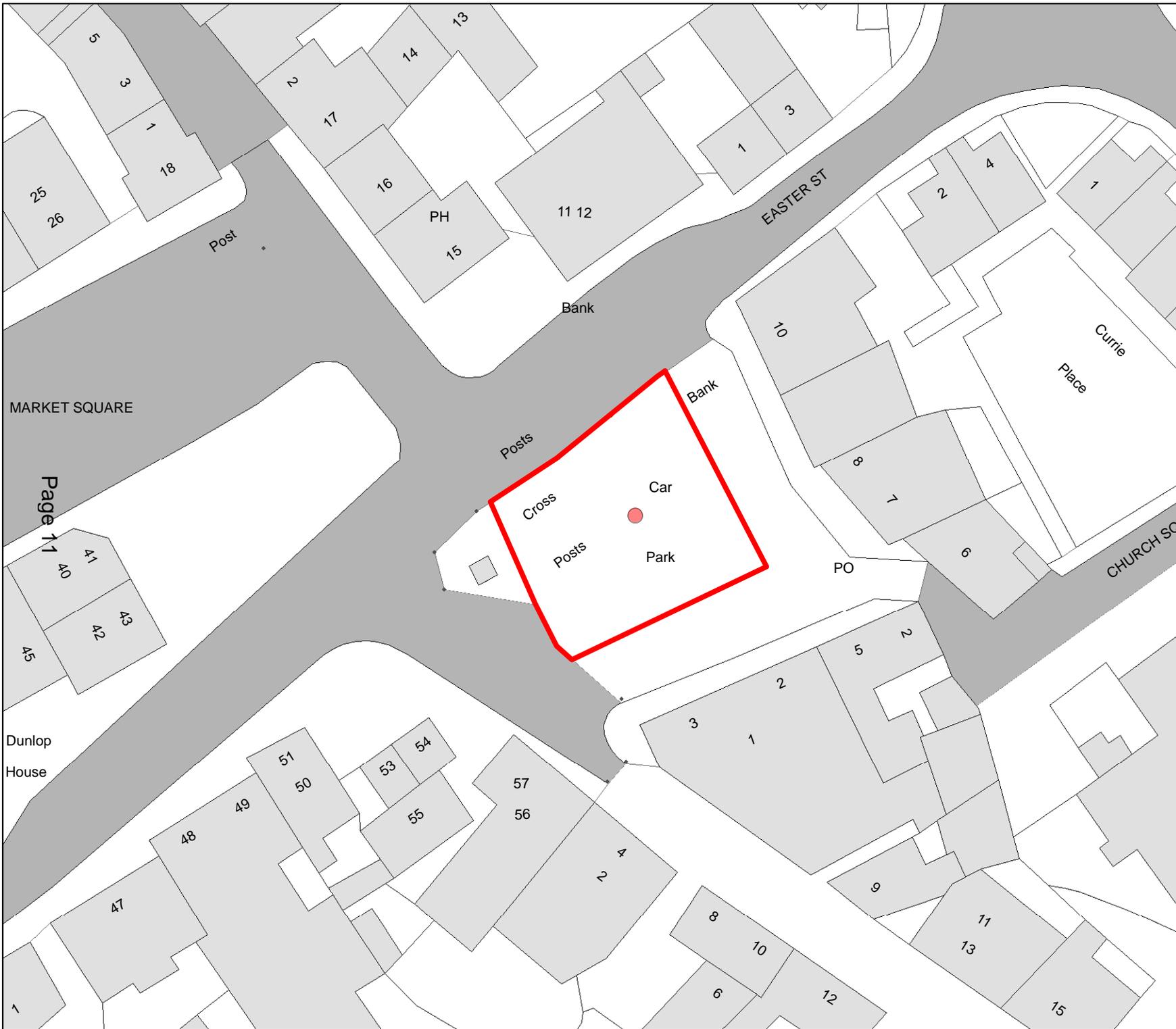
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**Showground Car Park
The Square
Duns**

DN010/02

Area: 412m² O.T



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