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EYEMOUTH COMMON GOOD FUND SUB-COMMITTEE MONDAY, 13 DECEMBER 2021

A MEETING of the EYEMOUTH COMMON GOOD FUND SUB-COMMITTEE will be held VIA
MICROSOFT TEAMS on MONDAY, 13 DECEMBER 2021 at 9.00am

J. J. WILKINSON,
Clerk to the Council

6 December 2021

BUSINESS		
1.	Apologies for Absence	
2.	Order of Business	
3.	Declaration of Interest	
4.	Minute (Pages 3 - 4) Consider Minute of Meeting held on 29 April 2019. (Copy attached.)	2 mins
5.	Consultation on Heritable and Moveable Asset Registers (Pages 5 - 18) 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 C. Hamilton (Chairman), J. A. Fullarton, H. Laing and Mr J. Anderson

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

MINUTE of MEETING of the EYEMOUTH
COMMON GOOD FUND SUB-COMMITTEE
held in the Committee Room 3, Council
Headquarters, Newtown St. Boswells on 29
April 2019 at 2.00 p.m.

Present:- Councillors J. Fullarton, C. Hamilton, H. Laing

Apologies:- Councillor H. Laing, Mr J. Anderson – Eyemouth CC
In Attendance:- Principal Solicitor, Neighbourhood Area Manager (D. Silcock), Treasury
Business Partner, Estates Surveyors (J. Stewart, A. Scott), Democratic
Services Team Leader, Trainee Democratic Services Officer

1. PREVIOUS MEETING

As the last meeting on Wednesday 27 March 2019 was inquorate, no formal decisions could be taken. However, there was an informal discussion including the Community Council representative to obtain their input. This meeting was to formally agree the way forward.

2. CHAIRMAN

Councillor Fullarton, seconded by Councillor Hamilton, moved that Councillor Hamilton be appointed as Chairman of the Sub-Committee.

DECISION

AGREED that Councillor Hamilton be appointed as the Chairman of the Sub-Committee.

3. COMMON GOOD AND COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

There had been circulated copies of a draft Asset List prepared by the Principal Solicitor in terms of the Council Report by the Service Director Regulatory Services dated 31 January 2019 on the duties placed on Scottish Borders Council in respect of common good assets by Part 8 of the Community Empowerment (Scotland) Act 2015 and recommended actions to ensure compliance with such duties. The Principal Solicitor reported that the draft asset list had been produced in compliance with the Act, using current heritable property registers together with information available regarding moveable items. Following approval of the asset list by the Common Good Sub-Committee, the Council would publish the proposed list of common good assets and undertake a 12 week public consultation period. Following the consultation period, the Sub-Committee would reconvene to agree the finalised Common Good Asset Register. The Register would then be published within six months from the end of the consultation period. There was a full discussion on each of the items on the Asset Register. The use of "Royal Burgh" in the title for Eyemouth was queried and it was agreed that this be clarified before deletion. Members advised the Harbour Trust, Museum or Library may hold information on other items that would belong to the Common Good Fund which included the Lord Provost Chain. It was proposed that the Principal Solicitor contact Live Borders to ascertain if this was the case and if any other moveable items were known. If any items were identified, which should be included on the Register, it was agreed that powers be delegated to the Principal Solicitor to update the draft register as appropriate in consultation with the Sub-Committee Members. It was noted that any items identified in the future could be added to the Register at a later date

DECISION

AGREED that powers be delegated to the Principal Solicitor to update the Asset Register if required, in consultation with the Members of the Sub-Committee, following her discussions with Live Borders.

4. **FINANCIAL UPDATE**

The Treasury Business Partner reported that a fund had been set up which included the three items from the Register but there were no cash reserves. This situation would remain unless cash donations were received at a future date. The Sub-Committee noted that no income would be generated from these items. The assets on the register had been set up from the most recent valuation and any depreciation would be covered by the revaluation reserve.

DECISION

NOTED the position.

5. **DATE OF NEXT MEETING**

It was noted that a further meeting would be held in October after the 12 week consultation period.

DECISION

AGREED that a further meeting would be scheduled in October.

The meeting concluded at 2.35pm.

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

Report by Principal Solicitor

Eyemouth Common Good Fund Sub Committee

13 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 Eyemouth 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 Eyemouth 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 Eyemouth;**
 - (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;**

- (d) **Notes that the Section 95 Officer will amend the Common Good accounts to include the additional asset identified as Common Good, as indicated at paragraph 3.4 of this report.**

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 Eyemouth this information has been prepared through: consolidating the original inventory held by the Scottish Borders Council; collaboration and consultation with the Eyemouth Common Good Fund Sub Committee; collaboration and consultation with Live Borders in relation to potential items held within their collections; 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. The assets contained on the list reflect the assets contained in previous Financial Monitoring Reports, with one addition. It has previously been noted that the land at the High Street toilets was Common Good land. However, it has not previously been noted that the building containing the public toilets is a Common Good asset. In recognising the principle of law that land and buildings cannot be owned separately, the toilet building should properly be classified as part of the Common Good.

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
Hannah MacLeod	Principal Solicitor, 01835 835216 or email hannah.macleod@scotborders.gov.uk

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 Hannah MacLeod, Principal Solicitor, Council Headquarters, Newtown St Boswells , 01835 835216 or email hannah.macleod@scotborders.gov.uk

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BURGH OF EYEMOUTH

LAND			
Name of Asset	Location	Description	
Brownsbank Park	Brownsbank, Eyemouth, TD14 5DJ	The land was gifted to Burgh for use as public park only in 1962.	 EY016-01 Brownsbank Park Site
Eyemouth Fort	Eyemouth, TD14 5BB	The Fort and the land in which it is erected was gifted by Mrs Home Robertson “for the benefit and enjoyment of the people of Eyemouth” in 1979.	 EY016-02 Eyemouth Fort Site Plan (2016).pdf
High Street Toilets	High Street, Eyemouth, TD14 5EU	The land on which the public toilet was erected was conveyed to the Burgh for certain good and onerous causes in 1971.	 EY017-02 High Street Toilets (2015).pdf
ART AND ARTEFACTS			
Name of asset	Location	Description	
Lord Provost's Chain	Eyemouth Museum		



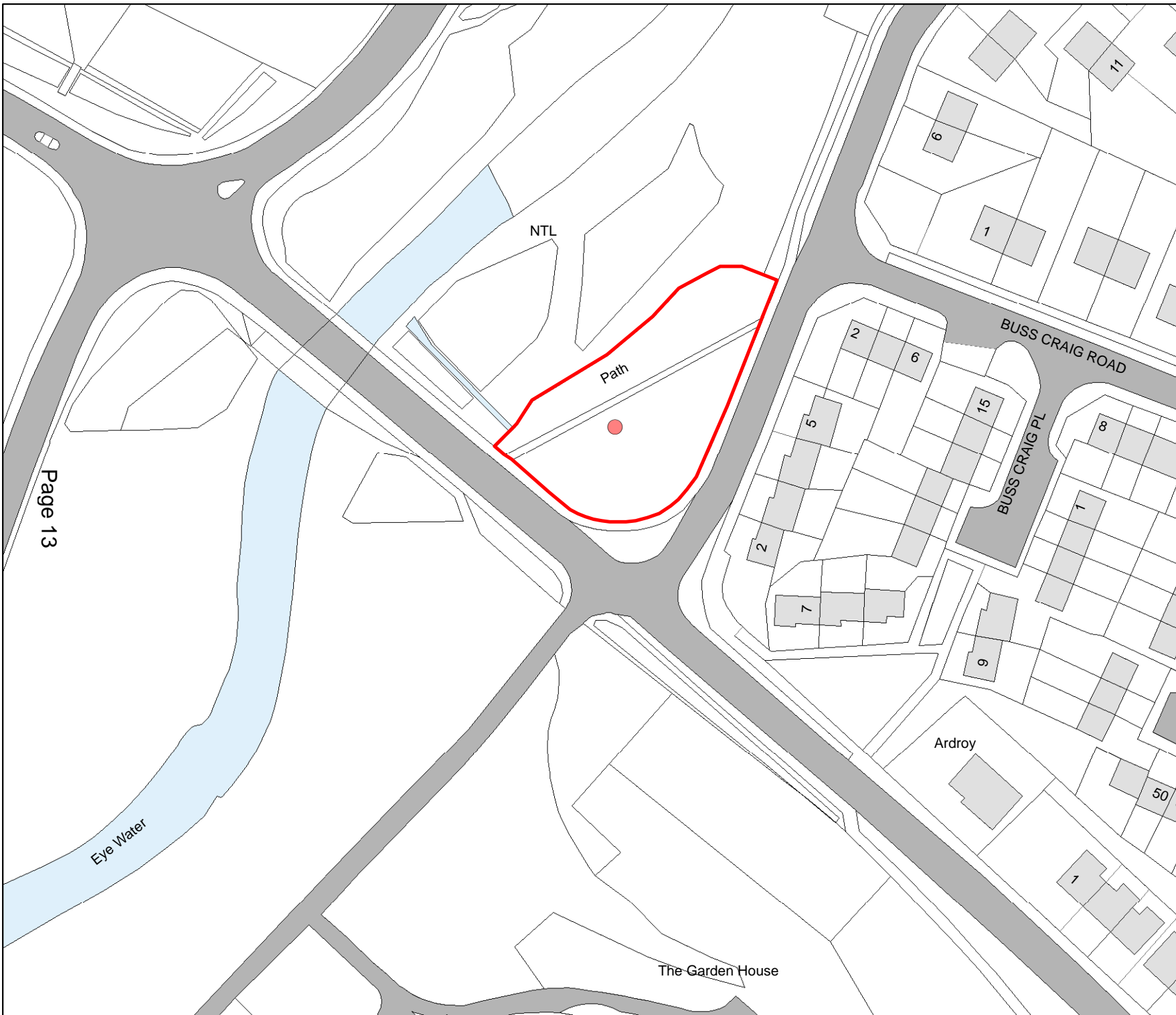
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**Brownsbank Park
Brownsbank
Eyemouth**

EY016/01

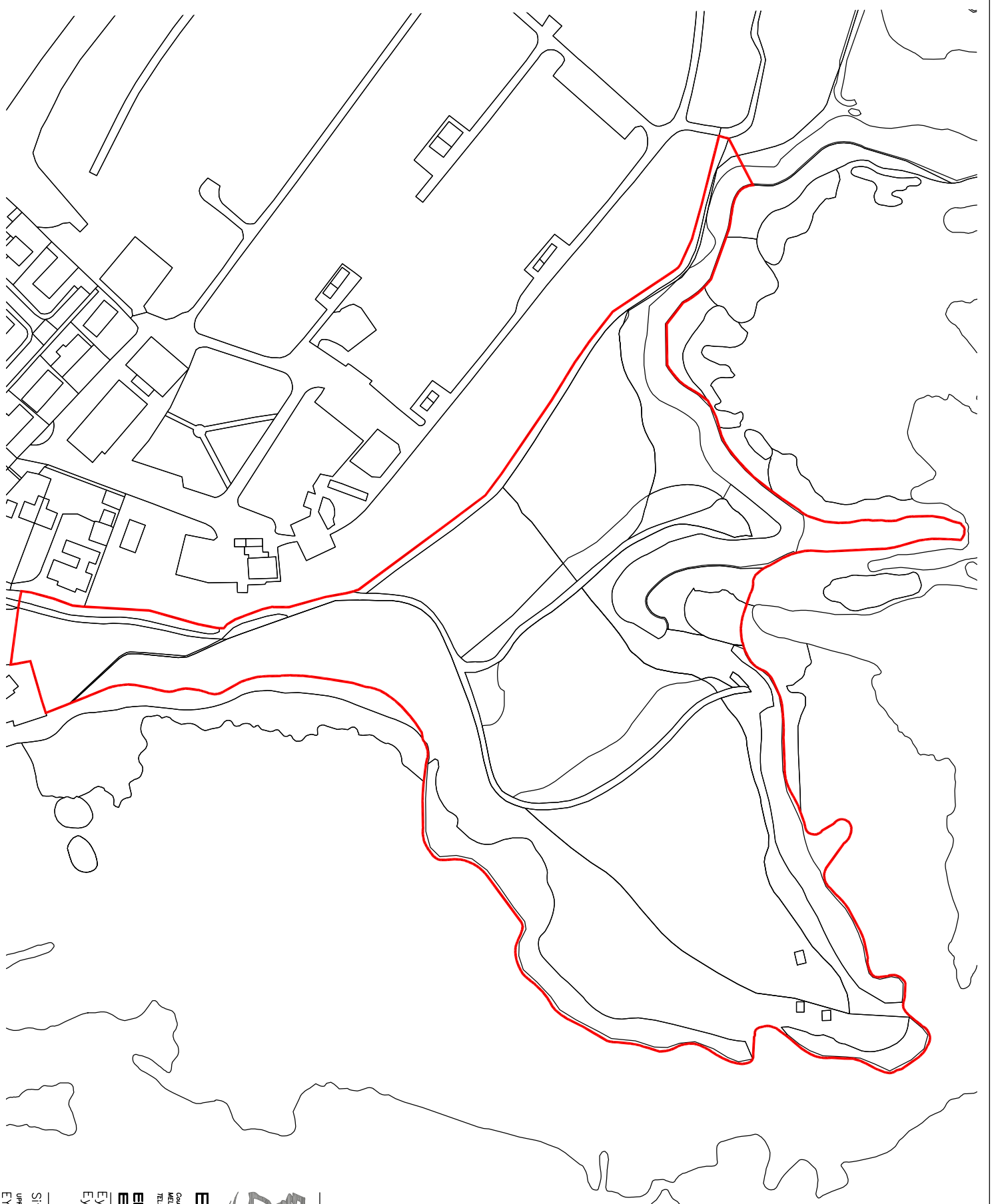
Area: 1451m² O.T



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100023423, 2010.

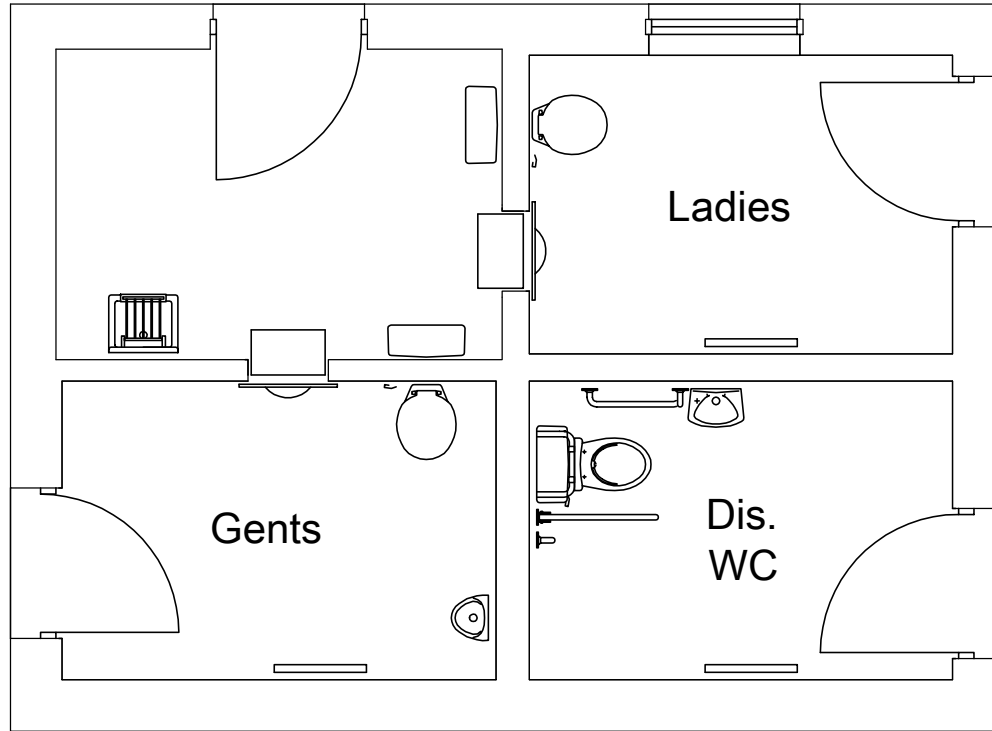
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ENGINEERING AND PROPERTY
ESTATE MANAGEMENT
 Eyemouth Fort
 Eyemouth

Site Plan (Area: 4.26ha.) SCALE 1:1,200(A4)
 UPEN DRAWING No. DATE
 EY016/02 01 Aug 2016

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**ENGINEERING AND PROPERTY
ESTATE MANAGEMENT**

High Street Toilet
Eyemouth

Floor Plan	SCALE 1:50
UPRN EY017/02	DRAWING No. 01
	DATE Nov 2015

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