

# Public Document Pack



## KELSO COMMON GOOD SUB-COMMITTEE TUESDAY, 13TH SEPTEMBER, 2022

A MEETING of the KELSO COMMON GOOD SUB-COMMITTEE will be held on TUESDAY, 13TH SEPTEMBER, 2022 at 5.30 PM. The meeting will be conducted by Microsoft Teams.

Arrangements are in place to stream the meeting for public viewing. A link will be provided on the Council's website before the meeting.

J. J. WILKINSON,  
Clerk to the Council,

6 September 2022

<b>BUSINESS</b>		
1.	<b>Apologies for Absence</b>	
2.	<b>Order of Business</b>	
3.	<b>Declaration of Interests.</b>	
4.	<b>Minute.</b> (Pages 3 - 4)  Minute of Meeting of 21 June 2022 to be agreed and signed. (Copy attached.)	2 mins
	(a) <b>Pinnaclehill Woodland Update</b>	15 mins
5.	<b>Monitoring Report for 3 months to 30 June 2022</b> (Pages 5 - 16)  Consider report by Chief Financial Officer. (Copy attached.)	15 mins
6.	<b>Consultation on Heritable and Moveable Asset Registers for former Burgh of Kelso</b> (Pages 17 - 32)  Consider report by Principal Solicitor. (Copy attached.)	
7.	<b>Any Other Items Previously Circulated.</b>	
8.	<b>Any Other Items which the Chairman Decides are Urgent.</b>	

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## **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.**

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**Membership of Committee:-** Councillors E. Robson (Chairman), S. Mountford, T. Weatherston, Community Councillor G. Horsburgh

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Please direct any enquiries to Fiona Henderson, Democratic Services Officer Tel: 01835826502  
fhenderson@scotborders.gov.uk

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

MINUTE of MEETING of the KELSO COMMON  
GOOD FUND SUB-COMMITTEE held via Microsoft  
Teams on Tuesday, 21 June 2022 at 5.15 p.m.

Present: - Councillors E. Robson (Chairman), T. Weatherston, S. Mountford.

Apologies:- Community Councillor G. Horsburgh.

In Attendance: - Pensions and Investments Manager, Solicitor - Lauren Mitchell, Democratic  
Services Officer (F.Henderson)

Members of the Public: - 0

1.0 **APPOINTMENT OF CHAIRMAN**

Councillor Weatherston, seconded by Councillor Mountford, proposed that Councillor Robson be appointed as Chairman. There being no other nominations, Councillor Robson was appointed as Chairman and took the Chair.

**DECISION**

**AGREED that Councillor Robson be appointed as the Chairman of the Kelso Common Good Fund Sub-Committee.**

2.0 **MINUTE**

There had been circulated copies of the Minute of the Kelso Common Good Fund Sub-Committee held on 22 March 2022.

**DECISION**

**AGREED to note the Minute for signature by the Chairman.**

3.0 **MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2022**

There had been circulated copies of a report by the Director - Finance and Corporate Governance providing details of the income and expenditure for the Kelso Common Good Fund for the year to 31 March 2022, a full year projected out-turn for 2022/23, including balance sheets values as at 31 March 2022, a full year projected out-turn for 2022/23, and projected balance sheet values as at 31 March 2023. Appendix 1 to the report provided the projected Income and Expenditure position for 2021/22 which showed a projected surplus of £9,541 for the year, which was better than the previously reported surplus on 22 March 2022, as a result of an increase in the return from the Aegon Investment Fund and an underspend in the Grants and Donations budget. Appendix 2 to the report provided a projected balance sheet value as at 31 March 2022 and showed a projected decrease in reserves of £41,002. Appendix 3(a) to the report provided a breakdown of the property portfolio showing rental income and net return for 2021/22. Appendix 3(b) provided a breakdown of the property portfolio showing actual property expenditure for 2021/22. Appendix 4 provided a breakdown of the property portfolio showing projected property valuations at 31 March 2022. Appendix 5 detailed the value of the Aegon Asset Management Investment Fund to 31 March 2022. The Pension & Investment Manager highlighted the main points in the report and answered Members questions. Members noted that Aegon were meeting their targets and congratulated Mrs Robb and her team for their hard work managing the fund. Members raised the issue of toilet provision in Croft Park, Kelso where the toilets may be closed permanently and the implications of the building remaining as a Common Good Asset and continued maintenance costs being funded by SBC. There was discussion about whether a charge could be made, although it was acknowledged that the toilets would require refurbishment, which the Common Good could fund, following any decision by SBC to close, the Common Good wished them to be reopened. If the Common Good reopened them it would also be liable for the running costs. There was a

suggestion that an estimate for the refurbishment of the Croft Park toilets be sought from Estates, however it was agreed to await the findings of the Working Group. Councillor Weatherston raised the matter of Pinnaclehill Woodland and the continuing maintenance of the Asset, following discussion around assessment of the trees, woodland management and the potential to sell an Asset, it was agreed that Simon Wilkinson, Tree Officer be requested to carry out a survey of the trees contained within the Pinnaclehill Woodland.

#### **DECISION**

##### **(a) AGREED:-**

- (i) the projected income and expenditure 2022/23 as shown in Appendix 1 as the revised budget for 2022/23; and**
- (ii) that the Tree officer be requested to carry out a survey of the trees contained within the Pinnaclehill Woodland to be reported to a future meeting.**

##### **(b) NOTED the;**

- (i) actual income and expenditure for 2021/22 in Appendix 1;**
- (ii) final balance sheet value as at 31 March 2022, and projected balance sheet value as at 31 March 2023;**
- (iii) summary of the property portfolio in Appendices 3 and 4; and**
- (iv) current position of the Aegon Asset Management Investment Fund in Appendix 5.**

#### **4.0 MEETINGS**

The Democratic Services Officer requested the Sub-Committee consider changing the time of the meeting as Community Councillor Horsburgh was unable to attend at the specified time, or seek an alternative representative from Kelso Community Council.

#### **DECISION**

**AGREED that the Chairman speak with Community Councillor Horsburgh about whether he would be available to attend, should the meeting time be altered, and if not an alternative representative be sought.**

*The meeting closed at 5.40 p.m.*



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## **MONITORING REPORT FOR 3 MONTHS TO 30 JUNE 2022**

**Report by Acting Chief Executive**

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### **KELSO COMMON GOOD FUND SUB-COMMITTEE**

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**13 September 2022**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report provides the details of the income and expenditure for the Kelso Common Good Fund for the three months to 30 June 2022, a full year projected out-turn for 2022/23, and projected balance sheet values as at 31 March 2023.**
- 1.2 Appendix 1 provides the projected income and expenditure position for 2022/23. This shows a projected surplus of £7,804 for the year.
- 1.3 Appendix 2 provides a projected balance sheet value as at 31 March 2023. It shows a projected decrease in reserves of £53,675.
- 1.4 Appendix 3a provides a breakdown of the property portfolio showing projected rental income and projected net return for 2022/23 and actual property income to 30 June 2022.
- 1.5 Appendix 3b provides a breakdown of the property portfolio showing projected property expenditure for 2022/23 and actual property expenditure to 30 June 2022.
- 1.6 Appendix 4 provides a breakdown of the property portfolio showing projected property valuations at 31 March 2023.
- 1.7 Appendix 5 shows the value of the Aegon Asset Management Investment Fund to 30 June 2022.

#### **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Common Good Fund Sub-Committee:**
  - (a) Notes the projected income and expenditure for 2022/23 in Appendix 1;**
  - (b) Notes the projected balance sheet value as at 31 March 2023 in Appendix 2;**
  - (c) Notes the summary of the property portfolio in Appendices 3 and 4; and**
  - (d) Notes the current position of the Aegon Asset Management Investment Fund in Appendix 5.**

### **3 BACKGROUND**

3.1 This report provides the Committee with financial information for the period to 30 June 2022 and projections to 31 March 2023. The report also contains a projected balance sheet for the Common Good Fund as at 31 March 2023.

### **4 FINANCIAL POSITION 2022/23**

4.1 Appendix 1 provides details on income and expenditure for the 2022/23 financial year. The projected net position for the year is a surplus of £7,804.

#### **4.2 Income & Expenditure – Property Income**

There is no Rental Income from the properties owned by the Kelso Common Good Fund.

#### **4.3 Income & Expenditure – Non-Property Related Income**

- (a) The projected outturn position shows an amount of £150 relating to interest receivable on cash held by SBC. Also included are dividends from the Common Good Funds investment in Aegon Asset Management amounting to £12,265 with the projection for 2022/23 returning to the 5% target and the monthly distribution profile projections provided by Aegon. The position will be monitored closely with Aegon Asset Management.
- (b) Rebate income from Aegon Asset Management received in March 2022 of £69 was accounted for in 2021/22 however the corresponding 65 units have been purchased in April 2022.

#### **4.4 Income & Expenditure – Property Expenditure**

- (a) The property expenditure for 2022/23 is shown in Appendices 1 & 3b, with Appendix 3b detailing the actual property expenditure by individual property. Actual expenditure is reported on a cash basis until the year end with quarter 4 reports incorporating any annual adjustments for prepayments and accruals.
- (b) Appendices 3a and 3b show a full breakdown of the projections for property rental and repairs for 2022/23. These will be revised as further information is received.

#### 4.5 Income & Expenditure – Grants & Other Donations

The grants and other donations approved and distributed to 31 March 2023 are shown below:

<b>Grant Recipients</b>	<b>Approved</b>	<b>£</b>
<b>Approved and Paid to 30 June 2022</b>		
<b>Total Paid to 31 March 2023</b>		<b>0</b>
<b>Approved but not yet paid</b> E Dalzian – Girl Guide Jamboree	22/03/22	250
<b>Total Grants Approved not paid</b>		<b>250</b>
<b>Budget 2022/23</b>		<b>3,000</b>
<b><i>(Unallocated)/Overallocated Budget</i></b>		<b><i>(2,750)</i></b>

#### 4.6 Income & Expenditure – Central Support Service Charge

The proposed charge for 2022/23 is currently estimated using a 2% uplift on the 2021/22 charge. This is subject to revision once a full Service Charge Review has been completed and approved by Council.

#### 4.7 Income & Expenditure – Depreciation Charge

The projected depreciation charge for the year is £61,479. This is not a cash transaction and is off-set by a corresponding contribution from the Revaluation Reserve at the end of the financial year.

4.8 Appendix 2 provides the actual balance sheet value as at 1 April 2022, the projected movement in year and a projected balance sheet as at 31 March 2023.

#### 4.9 Balance Sheet – Fixed Assets

All fixed assets of the Common Good Fund are revalued every 5 years as part of the Council's rolling programme. The fixed assets were revalued at 1 April 2019. Appendix 4 shows the actual values of the individual properties at 1 April 2022, projected depreciation charges for 2022/23 and projected values at 31 March 2023.

#### 4.10 Balance Sheet – Investment Fund

The fund has a 10.46% unrealised gain in market value since investment, largely due to continued volatility in investment markets. Overall, taking account of the income received the fund has achieved a return of 10.70% since investment in February 2018.

#### 4.11 Balance Sheet – Cash Balance

The cash held by the fund is projected to be £44,681 at 31 March 2023 and is detailed below:

<b>Cash Balance</b>	<b>£</b>
<b>Opening Balance at 1 April 2022</b>	<b>37,146</b>
Projected Surplus for year from Income & Expenditure Statement	7,804
Net Cash Movement in Debtors/Creditors	0
Rebate Investment in Aegon	(269)
<b>Projected Closing Balance as at 31 March 2023</b>	<b>44,681</b>

#### 4.12 Balance Sheet – Capital Reserve

The movement in the Capital Reserves include the unrealised gain for the Aegon Asset Management Fund as at 31 March 2022, but due to the nature of the markets no estimate has been made for the future years' movement.

### 5 IMPLICATIONS

#### 5.1 Financial

There are no further financial implications other than those explained above in Section 4.

#### 5.2 Risk and Mitigations

There is a risk that investments in the Aegon Asset Management Fund may reduce in value due to market or investment performance. This risk cannot be fully mitigated; however it is being managed by the selection of a Fund Manager with a clear objective of preserving capital values while aiming to produce returns in line with the benchmark.

#### 5.3 Integrated Impact Assessment

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine financial monitoring report which forms part of the governance of the management of the Common Good Funds. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio-economic factors have duly been considered when preparing this report.

#### 5.4 Sustainable Development Goals

Whilst there are no economic, social or environmental effects arising from the proposals contained in this report, there are, through the activities reported upon, positive impacts upon the economy through protection of employment, positive impacts upon the quality of community life and improvements in local amenities and nurturing of local talent. The potential improvement in levels of income through the use of the new investment fund will act to make the Common Good Fund more sustainable in the future.



## 5.5 Climate Change

There are no effects on climate change arising from the proposals contained in this report.

## 5.6 Rural Proofing

There are no effects on rural proofing arising from the proposals contained in this report.

## 5.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

## 5.8 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

# 6 CONSULTATION

- 6.1 The Chief Legal Officer (including as Monitoring Officer), the Chief Officer Audit and Risk, Director (People Performance & Change), the Clerk to the Council and Communications have been consulted and their appropriate comments have been incorporated into this report.

### Approved by

**David Robertson**  
**Acting Chief Executive**

**Signature .....**

### Author(s)

Kirsty Robb	Pension and Investments Manager - Tel: 01835 825249
Sara Wilson	Treasury Business Partner - Tel: 01835 824000 Extn 5854

### Background Papers:

**Previous Minute Reference:** Kelso Common Good 21 June 2022

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

Contact us at Pension & Investments, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA.

Tel: 01835 824000 Fax: 01835 825166

Email: t&cteam@scotborders.gov.uk

**KELSO COMMON GOOD FUND  
PROJECTED INCOME AND EXPENDITURE 2022/23**

**APPENDIX 1**

	Actuals at 30/06/22	Full Year Approved Budget 2022/23	Full Year Projected Out-turn 2022/23	Full Year Projected Over/ (Under) Spend 2022/23	Para Ref	Comments
	£	£	£	£		
<b>Property Income</b>						
Rental Income	0	0	0		4.2	
<b>Non-Property Related Income</b>						
Interest on Cash deposited with Council	(0)	(150)	(150)		4.3	
Investment Fund – Dividends Rec'd	(1,446)	(12,265)	(12,265)		4.3	Est 5% return
Other Income	(0)	(270)	(270)		4.3	
<b>Total Income</b>	<b>(1,446)</b>	<b>(12,685)</b>	<b>(12,685)</b>			
<b>Property Costs – General</b>	<b>0</b>	<b>0</b>	<b>0</b>		4.4	
<b>Grants &amp; Other Donations</b>	<b>0</b>	<b>3,000</b>	<b>3,000</b>		4.5	3 year average
<b>Central Support Service Charge</b>	<b>0</b>	<b>1,881</b>	<b>1,881</b>		4.6	Subject to review
<b>Depreciation</b>						
Depreciation Charge	0	61,479	61,479		4.7	
Contribution from Revaluation Reserve	(0)	(61,479)	(61,479)		4.7	
<b>Net impact of Depreciation on Revenue Reserve</b>	<b>0</b>	<b>0</b>	<b>0</b>			
<b>Total Net (Surplus)/Deficit for year</b>	<b>(1,446)</b>	<b>(7,804)</b>	<b>(7,804)</b>			

## PROJECTED BALANCE SHEET VALUE AS AT 31 MARCH 2023

	Opening Balance at 01/04/22	Projected Movement in Year	Closing Balance at 31/03/23
	£	£	£
<b>Fixed Assets</b>			
Land & Buildings	808,763	(61,479)	747,284
Moveable Assets	19,080	0	19,080
Feu Duties	0	0	0
<b>Total Fixed Assets</b>	<b>827,843</b>	<b>(61,479)</b>	<b>766,364</b>
<b>Capital in Investment Fund</b>			
Investment Fund Book Value	280,564	269	280,833
Unrealised Gains/(Loss)	2,051	0	2,051
<b>Market Value</b>	<b>282,615</b>	<b>269</b>	<b>282,884</b>
<b>Current Assets</b>			
Debtors	1,341	0	1,341
Cash deposited with SBC	37,146	7,535	44,681
<b>Total Current Assets</b>	<b>38,487</b>	<b>7,535</b>	<b>46,022</b>
<b>Current Liabilities</b>			
Creditors	0	0	0
Receipts in Advance	0	0	0
<b>Total Current Liabilities</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Net Assets</b>	<b>1,148,945</b>	<b>(53,675)</b>	<b>1,095,270</b>
<b>Funded by:</b>			
<b>Reserves</b>			
Revenue Reserve	(72,939)	(7,804)	(80,743)
Capital Reserve	(248,163)	0	(248,163)
Revaluation Reserve	(827,843)	61,479	(766,364)
<b>Total Reserves</b>	<b>(1,148,945)</b>	<b>53,675</b>	<b>(1,095,270)</b>

**PROPERTY PORTFOLIO PERFORMANCE FOR 2022/23**  
**(Actual income to 30 June 2022 and projections to 31 March 2023)**

Rental Income – Land & Buildings	2022/23			
	Approv'd Budget	Project'd Budget	Actuals as at 30/06/22	Projected Net (Return) /Loss £
	£	£	£	£
Croft Park Toilet	0	0	0	0
Kelso Tait Hall	0	0	0	0
Kelso War Memorial	0	0	0	0
Croft Park	0	0	0	0
Croft Park Play Area	0	0	0	0
Pinnaclehill Woodlands	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**PROPERTY PORTFOLIO PERFORMANCE FOR 2022/23  
(Actual expenditure to 30 June 2022)**

Property Expenditure – Land & Buildings	2022/23			
	Approv'd Budget	Actual (Repair & Maint)	Actual (Other)	Actual Total
	£	£	£	£
Croft Park Toilet	0	0	0	<b>0</b>
Kelso Tait Hall	0	0	0	<b>0</b>
Kelso War Memorial	0	0	0	<b>0</b>
Croft Park	0	0	0	<b>0</b>
Croft Park Play Area	0	0	0	<b>0</b>
Pinnaclehill Woodlands	0	0	0	<b>0</b>
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**PROPERTY PORTFOLIO VALUATION FOR 2022/23**  
**(Projected property valuation to 31 March 2023)**

<b>Fixed Assets – Land &amp; Buildings</b>	<b>Net Book Value at 01/04/22</b>	<b>Project'd Depn Charge 2022/23</b>	<b>Project'd Net Book Value at 31/03/23</b>
	<b>£</b>	<b>£</b>	<b>£</b>
Croft Park Toilet	<b>8,650</b>	(2,350)	<b>6,300</b>
Kelso Tait Hall	<b>795,613</b>	(59,129)	<b>736,484</b>
Kelso War Memorial	<b>0</b>	0	<b>0</b>
Croft Park	<b>0</b>	0	<b>0</b>
Croft Park Play Area	<b>0</b>	0	<b>0</b>
Pinnaclehill Woodlands	<b>4,500</b>	0	<b>4,500</b>
<b>Total</b>	<b>808,763</b>	<b>(61,479)</b>	<b>747,284</b>

<b>Fixed Assets – Moveable Assets</b>	<b>Projected Net Book Value at 31/03/23</b>
	<b>£</b>
Silver Bowl & Salver	19,080
<b>Total</b>	<b>19,080</b>

**INVESTMENTS EXTERNALLY MANAGED**

<b>Cost of Investment</b>	<b>Units</b>	<b>£</b>
Aegon Asset Management Investment (February 2018)	225,870	244,550
Aegon Asset Management Investment (September 2018)	18,490	20,000
Aegon Fund Rebate – (2018-2019)	250	270
Aegon Fund Rebate – (2019-2020)	202	226
Aegon Fund Rebate – (2020-2021)	249	249
Aegon Asset Management Investment (March 2022)	13,951	15,000
Aegon Fund Rebate – (2021-2022)	244	269
Aegon Fund Rebate – (2022-2023)	65	69
<b>Total Invested to 31 March 2022</b>	<b>259,321</b>	<b>280,633</b>

<b>Value of Investment</b>	<b>£</b>
31 March 2018	243,760
31 March 2019	266,674
31 March 2020	224,885
31 March 2021	267,410
31 March 2022	282,615
30 June 2022	251,385
<b>Increase/(Decrease) from Total Cash Invested</b>	<b>(29,248)</b>

<b>Return on Investment from inception</b>	<b>Capital Return %</b>	<b>Total Return %</b>
to 31 March 2018	-0.30	
to 31 March 2019	+3.86	+9.41
to 31 March 2020	-15.16	-5.98
to 30 June 2020	-8.52	+2.76
to 30 September 2020	-7.91	+4.83
to 31 December 2020	-0.61	+14.09
to 31 March 2021	+0.78	+16.84
to 31 June 2021	+1.10	+18.71
to 30 September 2021	+0.36	+19.52
to 31 December 2021	+3.93	+25.02
to 31 March 2022	+0.68	+22.56
to 30 June 2022	-10.46	+10.70

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## **Consultation on Heritable and Moveable Asset Registers for former Burgh of Kelso**

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### **Report by Principal Solicitor**

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### **Kelso Common Good Fund Sub Committee**

**13 September 2022**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report is to advise on the outcome of the recent consultation under the Community Empowerment (Scotland) Act 2015, and to seek approval of the final Common Good Register for Kelso.**
- 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 The Kelso Common Good Sub-Committee approved the draft asset register in December 2021 and agreed to the commencement of the public consultation. The consultation ran from December 2021 to 31 March 2022,
- 1.4 The Sub Committee now requires to consider the responses received to the consultation, and approve the final register to be recommended to Council for publication.

#### **2 RECOMMENDATIONS**

- 2.1 **I recommend that the Sub-Committee:-**
  - (a) Notes the consultation responses and officers' comments thereon, as set out at Appendix 1 to this report;**
  - (b) Approves the contents of the final list of heritable and moveable property assets held by the Council within the former Burgh of Kelso, as set out in Appendix 2;**
  - (c) Agrees to recommend to Council the said final asset list for publication as a completed Common Good Register for Kelso.**

### **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 to consult the public on this list.
- 3.2 A draft list was agreed by the Sub-Committee in December 2021 and a public consultation on that list took place from 21 December 2021 to 31 March 2022. The consultation was available on-line via Citizens Space, with paper copies of the lists being made available on request. The Council advertised the consultation on its website and through each of its Local Area Partnerships. In addition, details of the consultation were issued to every Community Council in the Scottish Borders.

### **4. CONSULTATION**

- 4.1 The consultation published the draft list of assets, together with a location plan for each of the land or building assets. The consultation asked for comments 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 There were 65 responses to the consultation and 7 of these responses related to Kelso. Several responses simply agreed with the draft Register. However, the substantive responses are set out in Appendix 1.
- 4.3 In considering the responses received, officers from the Council's Legal team have liaised with Estates and Finance colleagues in order to determine the provenance of the assets concerned. The legal tests have then been applied to the information gathered in order to form a view as to the assets' common good status. The legal tests can be summarised as follows:
- All property or land owned by the Burgh in 1975 *may* belong to the Common Good;
  - If the title deeds of the asset contain a 'common good declaration' which clearly indicates that the property should be held for the people of the Burgh, it is likely that the asset belongs to the Common Good;
  - If there is evidence, from the title deeds or the Burgh records that the asset was acquired for a statutory purpose, or using statutory powers, the asset is unlikely to be part of the Common Good.
  - If the asset is part of a separate Trust, it will not form part of the Common Good.
  - Moveable items (such as art and artefacts) again may be Common Good if owned by the Burgh in 1975.
  - Items used principally for the administration of the Burgh (such as minute books) will not be part of the Common Good, whereas ceremonial items such as robes and chains are likely to form part of the Common Good.

- 4.4 Officers' responses to the consultation comments are set out in Appendix 1. If the Sub-Committee agrees that all consultation responses have been appropriately considered, the next step in the process is for the Sub-Committee to approve the asset list set out at Appendix 2, as being the final Common Good Register for Kelso. Any changes from the draft register approved in December have been highlighted.
- 4.5 Following approval by the Sub-Committee of the final Register, Council approval will be sought for publication of the final Registers for all of the Common Good assets in the Scottish Borders. The aim is to have the full Scottish Borders Common Good Asset Register published by the end of September 2022.
- 4.6 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.

## **5 IMPLICATIONS**

### **5.1 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. However, any assets owned by the Common Good but operated by the Council, remain in the Council's accounts with appropriate disclosure notes included in both sets of accounts.

### **5.2 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.

### **5.3 Integrated Impact Assessment**

Steps were taken to ensure that the consultation was accessible to all. These steps included the publication of the consultation in paper copy which was made available on request.

### **5.4 Sustainable Development Goals**

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

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

### **5.6 Rural Proofing**

This is not a new policy matter.

**5.7 Data Protection Impact Statement**

There are no data protection implications resulting from the proposed publication of the Registers of Common Good.

**5.8 Changes to Scheme of Administration or Scheme of Delegation**

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

**6 CONSULTATION**

6.1 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 825 216

**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. Hannah MacLeod can also give information on other language translations as well as providing additional copies.

Contact us at Hannah MacLeod, Legal and Licensing Services, Council Headquarters, Newtown St Boswells , 01835 825216 or email hannah.macleod@scotborders.gov.uk

## **Consultation on Heritable and Moveable Asset Registers for former Burgh of Kelso**

### **Appendix 1: Responses to Consultation and Officers' Considerations**

<b>Consultation Comment</b>	<b>SBC Response</b>	<b>Recommended action</b>
Shedden Park should be on the Common Good Register	The park was acquired in 1951 as the result of a court decree resulting in a trust reorganisation. As a result of the holding by the Council of this asset in terms of public trust, it cannot be classified as Common Good, but it does have a similar status.	No action
Abbey Row Centre should be on the Common Good Register	This asset was not owned by the Burgh and accordingly does not form part of the Common Good. It was acquired by Roxburgh County Council in 1957 under the Education (Scotland) Acts.	No action
Tait Hall should be on the Common Good Register	This property is already on the Common Good register	No action

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## Consultation on Heritable and Moveable Asset Registers for former Burgh of Kelso

### Appendix 2: Proposed Final Register of Common Good Assets in Kelso

#### BURGH OF KELSO

LAND			
Name of Asset	Location	Description	Plan
Tait Hall	Edenside Road, Kelso TD5 7BS	Title for the hall transferred to the Kelso Town Council in 1951. The deed narrates that prior to his death Arthur Middlemas had offered to gift his field to the Council for the erection of a hall. William E Tait provided a legacy of £10,000 "for the purpose of erecting a hall suitable to the needs of the community". The hall had been built and opened in 1935. The hall is currently operated by Live Borders.	See attached pdf
Kelso War Memorial	Bridge Street, Kelso	The site on which the memorial is erected was acquired by Town Council (by way of gift from Duke of Roxburghe) 1921. Use of the land was restricted to that of a site for War Memorial. Memorial constructed by public subscription. Town Council Minutes 2nd August 1920 indicate that the Kelso and District War Memorial Fund had resolved that the Town Council was the most suitable body to undertake custody of the completed Memorial and invited it to do so - which it did.	See attached pdf
Croft Park and play area	Edinburgh Road, Kelso	The land was acquired in 2 parts. The northern part was acquired in	See attached pdf

		1946 as part of a larger purchase (with site of what is now Croft Road and Inchmead Crescent). The deed narrates that to commemorate his 21st birthday, the 9th Duke of Roxburgh presented a 2.394 acre park 'to the Ducal Town of Kelso through the medium of the Provost, Magistrates and Councillors of the Burgh of Kelso'. The park would have been common good land. However, the Town Council later wished to use that area for part of its post war housing provision. The Duke confirmed that he had no objection to that, provided another area approved by him was provided by the Council for a playing field. The current park is the replacement provided.	
Pinnaclehill Woodlands	Kelso	The woodland was acquired by the Kelso Burgh Council in 1975 using common good funds. The amenity land contains a historical monument (bronze age burial site).	See attached pdf
<b>ART AND ARTEFACTS</b>			
<b>Name of asset</b>	<b>Location</b>	<b>Description</b>	
Silver Bowl & Salver	Kelso Town House		
Provost's Chain of Office	c/o current Provost		
<b>COMMON GOOD FUND</b>			
<b>Name of Asset</b>	<b>Location</b>	<b>Description</b>	
Kelso Common Good Fund	N/A	Fund set up for the benefit of the inhabitants of Kelso. Value of fund as at 1 April 2021 was £311,625	





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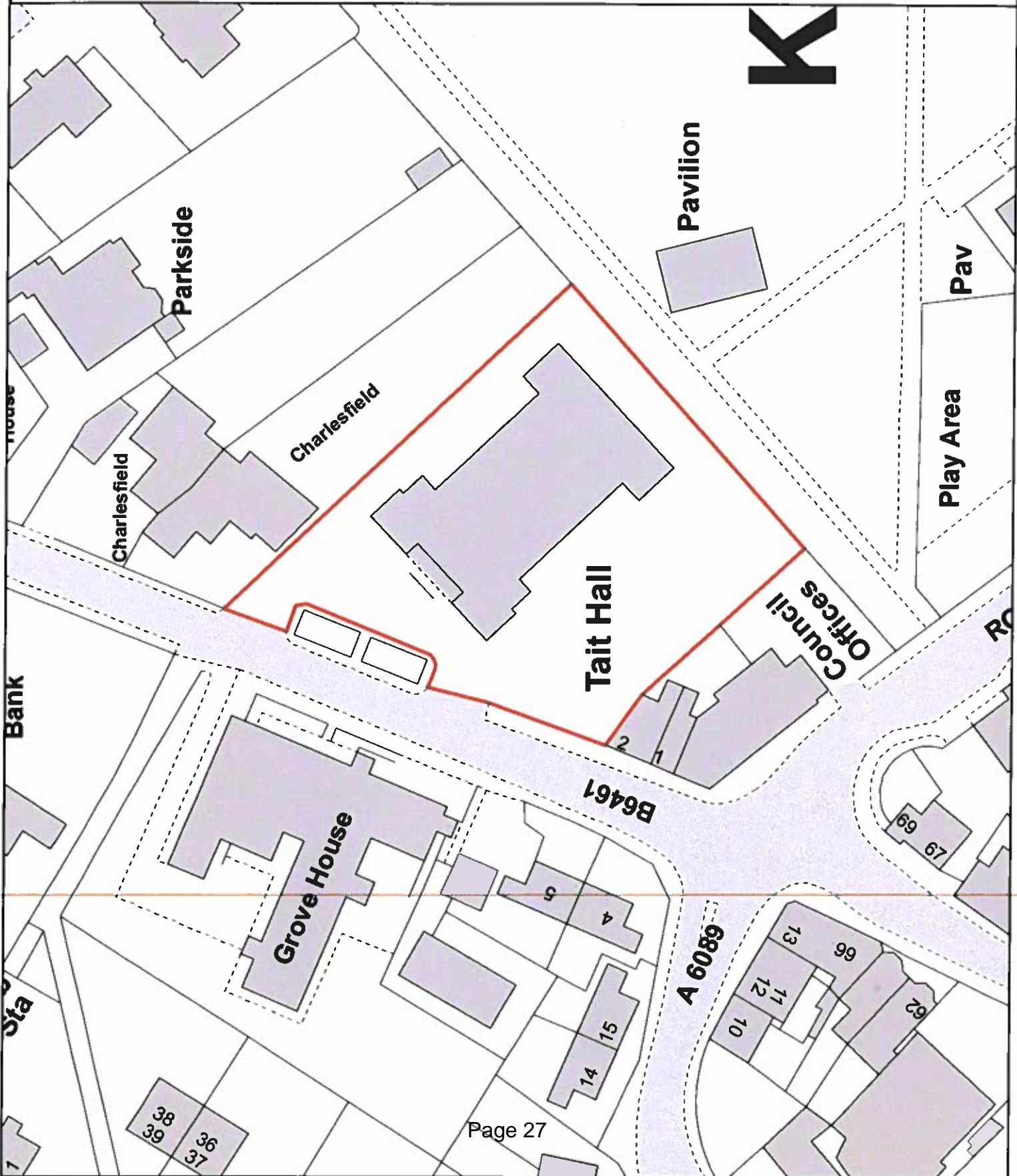
Hall

**Kelso Tait Hall**  
Edenside Road  
Kelso

Area: 2877 sq m o.t.

UPRN: KL026/01

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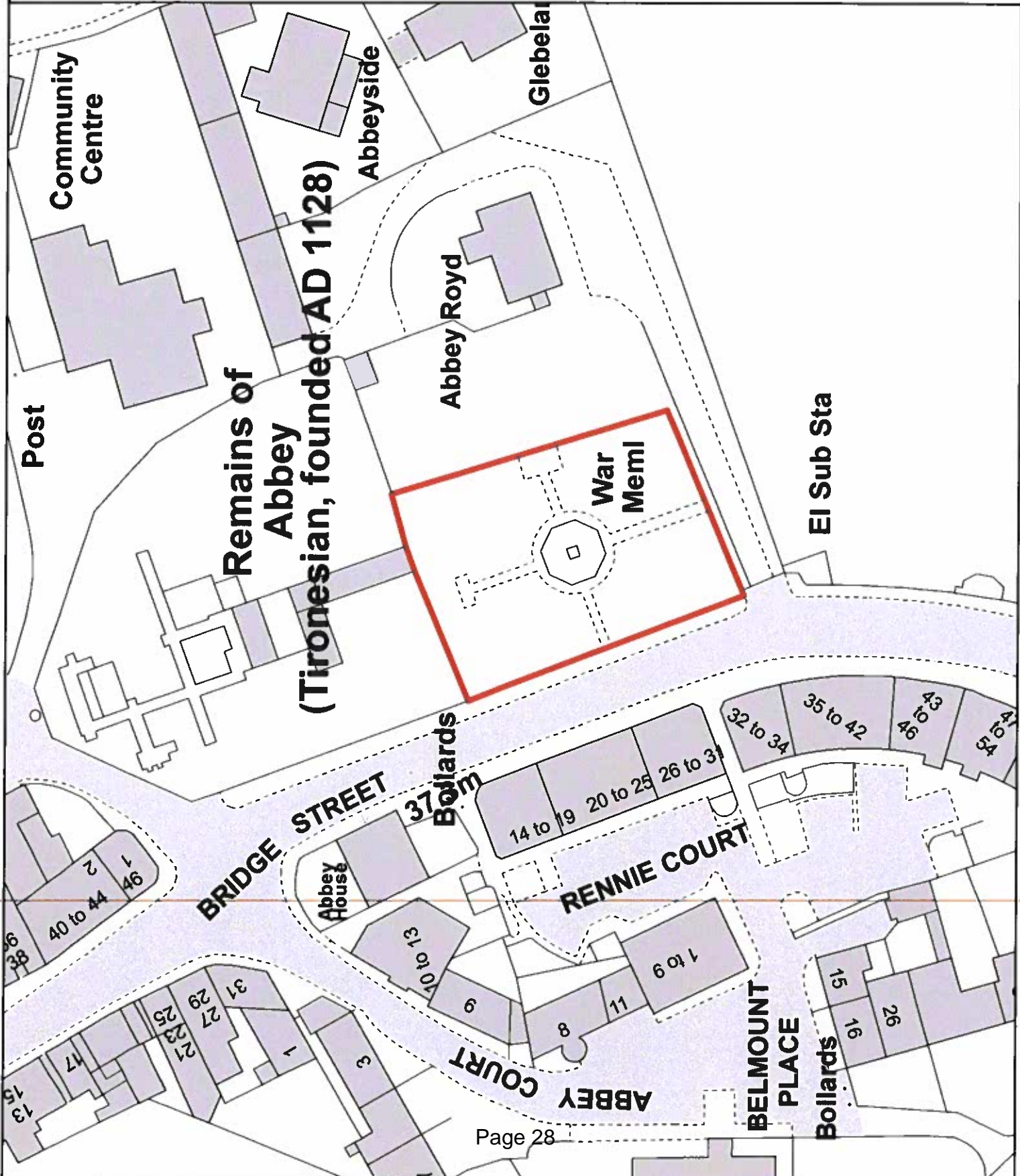
War Memorial

Bridge Street  
Kelso

Area: 1368 sq m o.t.

KL035/01

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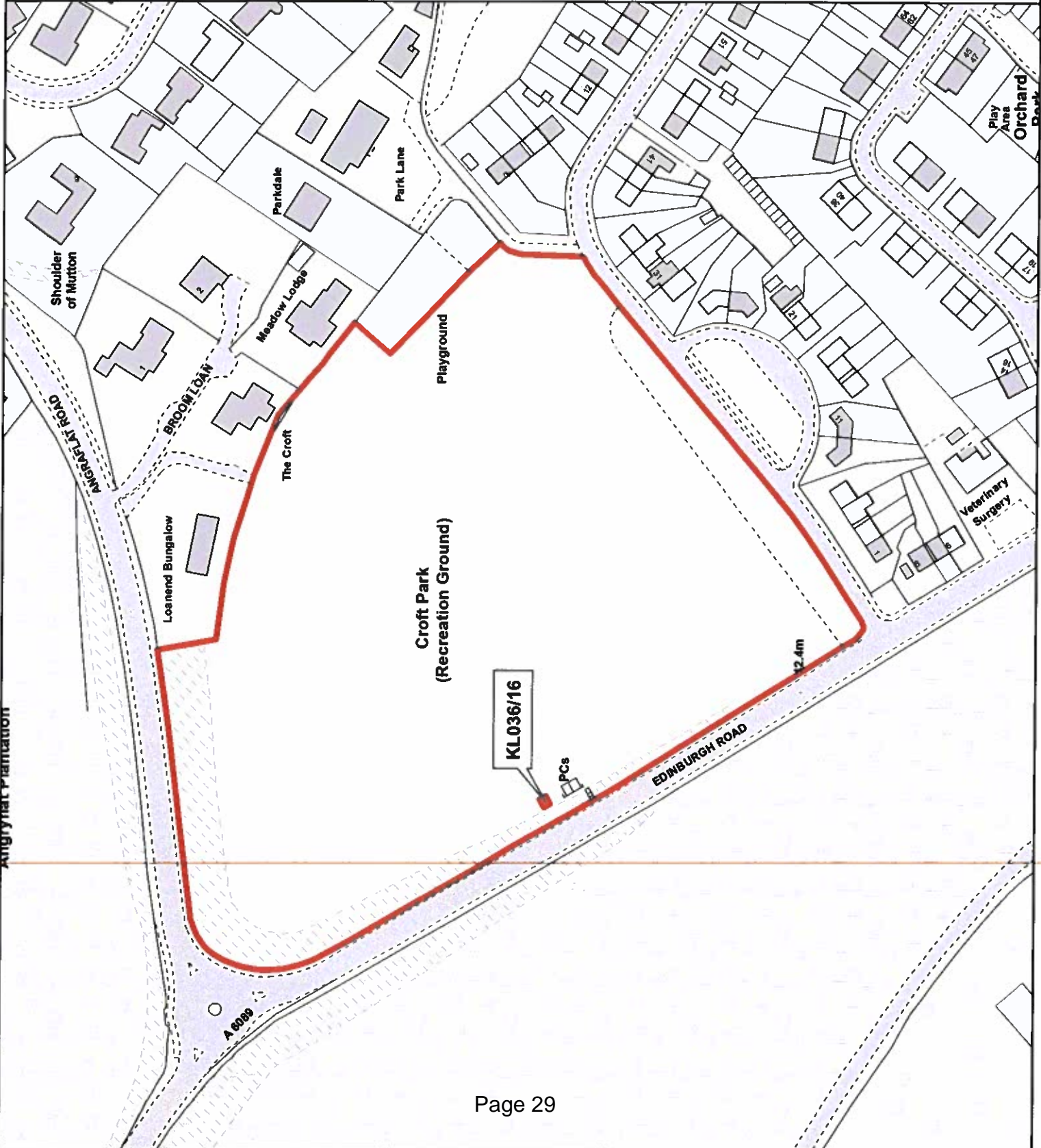
**Park**

**Croft Park  
Edinburgh Road  
Kelso**

**Area: 34,351 sq m o.t.**

**UPRN: KL036/06**

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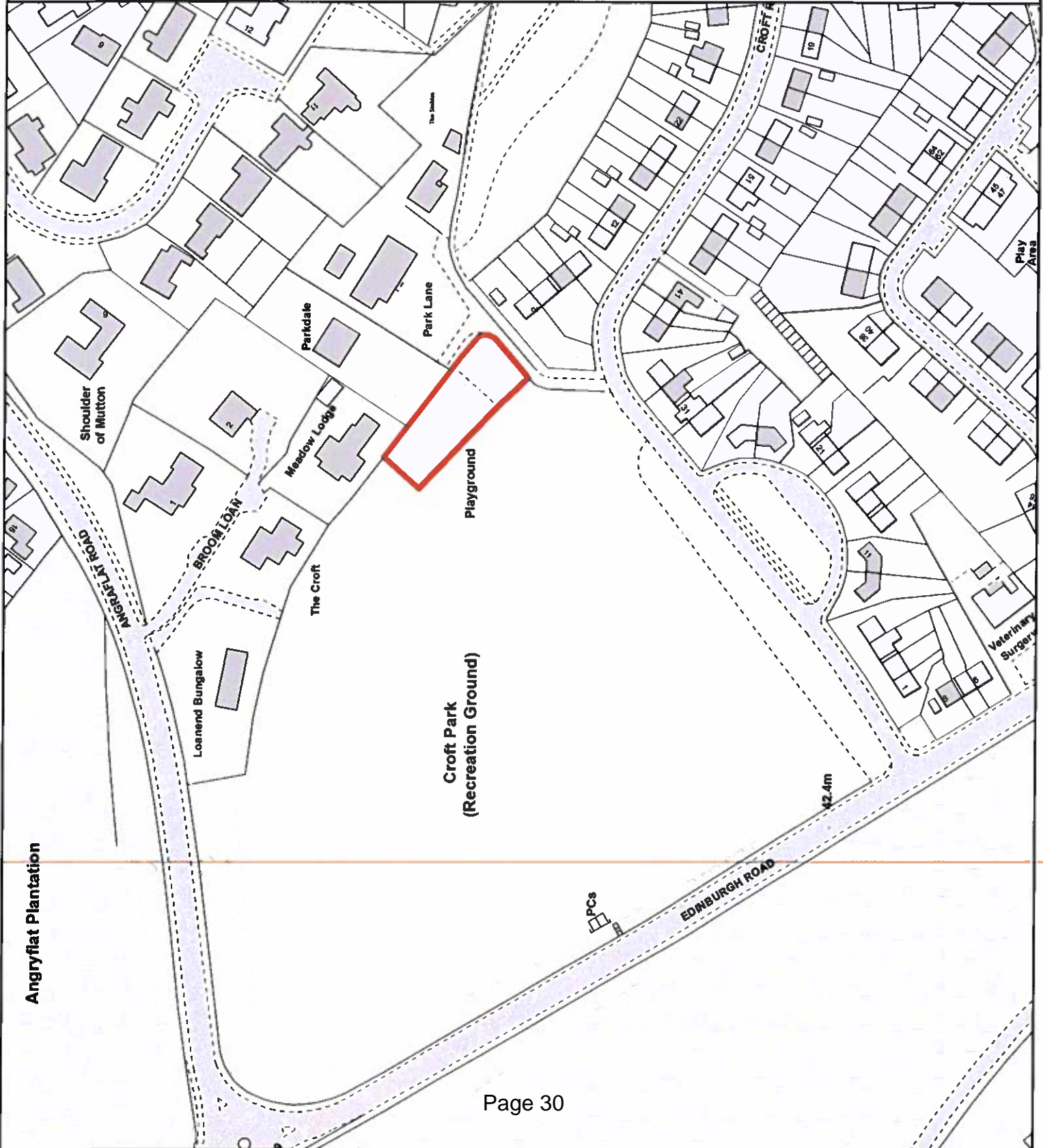
**Play Area**

**Croft Park Play Area  
Edinburgh Road  
Kelso**

**Area: 1,028 sq m o.t.**

**UPRN: KL036/07**

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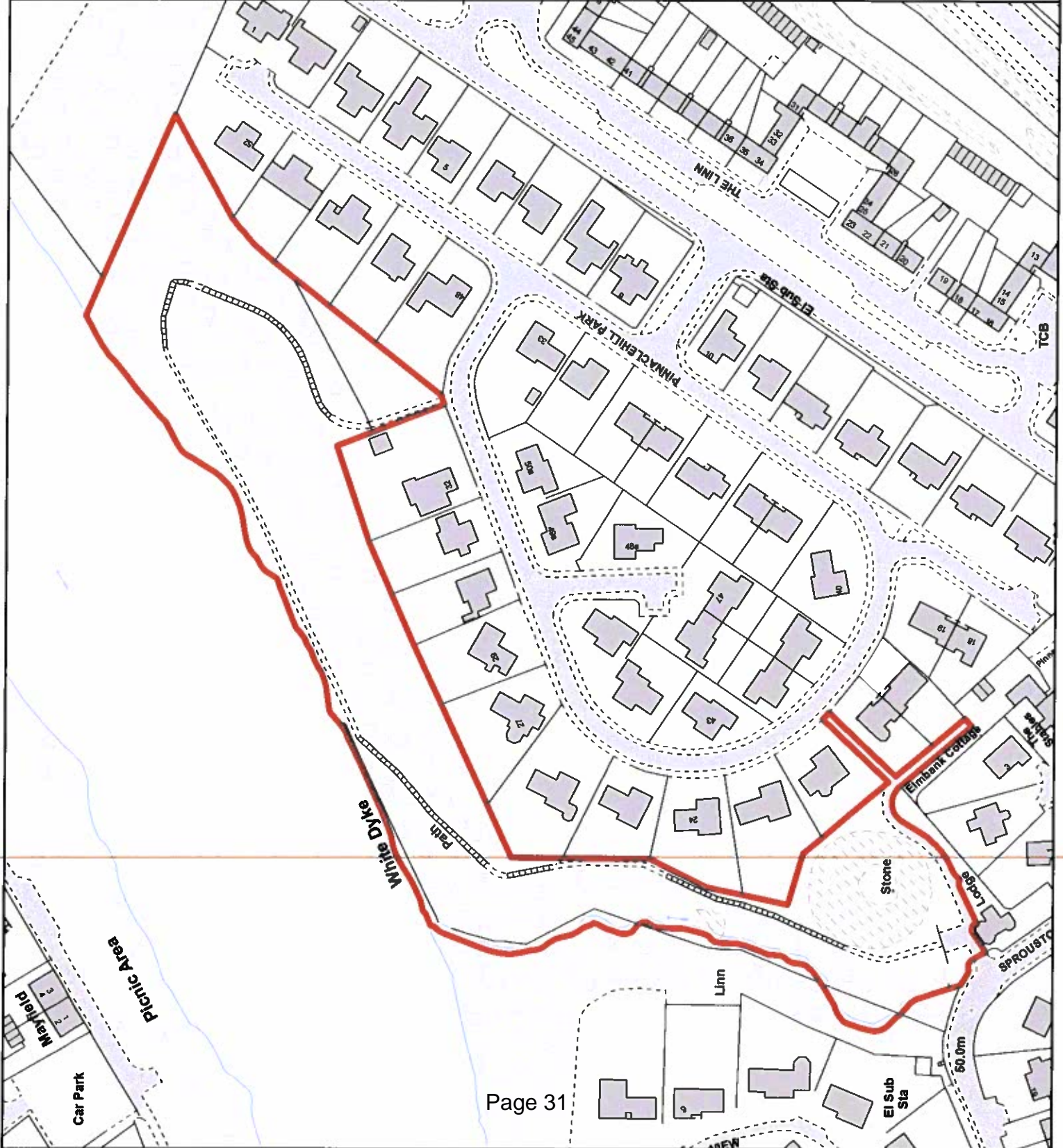
**Woodland**

**Pinnaclehill Woodlands  
Pinnaclehill  
Kelso**

**Area: 18,001.30 sq m o.t.**

**UPRN: KL038/01**

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