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EYEMOUTH COMMON GOOD FUND SUB-COMMITTEE TUESDAY, 13 SEPTEMBER 2022

A MEETING of the EYEMOUTH COMMON GOOD FUND SUB-COMMITTEE will be held VIA MICROSOFT TEAMS on TUESDAY, 13 SEPTEMBER 2022 at 3.30 pm

All attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days.

J. J. WILKINSON,
Clerk to the Council,

7 September 2022

BUSINESS		
1.	Apologies for Absence	
2.	Chair Consider appointment of Chair.	2 mins
3.	Vice Chair Consider appointment of Vice Chair.	2 mins
4.	Order of Business	
5.	Declarations of Interest	
6.	Minute (Pages 3 - 4) Consider Minute of the Special Meeting held on 6 April 2022. (Copy attached.)	2 mins
7.	Consultation on Heritable and Moveable Asset Registers for former Burgh of Eyemouth (Pages 5 - 18) Consider Report by Principal Solicitor. (Copy attached.)	20 mins
8.	Any Other Items Previously Circulated	
9.	Any Other Items which the Chair Decides are Urgent	
10.	Private Business Before proceeding with the private business, the following motion should be approved:-	

	<p>“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 7A to the aforementioned Act.”</p>	
11.	<p>Private Minute (Pages 19 - 20) Consider Private Section of the Minute of the Special Meeting held on 6 April 2022. (Copy attached.)</p>	

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. Anderson, C. Hamilton and A. Orr

Please direct any enquiries to William Mohieddeen
Tel: 01835 826504; Email: william.mohieddeen@scotborders.gov.uk

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

MINUTES of Meeting of the EYEMOUTH
COMMON GOOD FUND SUB-COMMITTEE
held in via Microsoft Teams on Wednesday,
6 April 2022 at 2.00 pm

Present:- Councillors C. Hamilton (Chairman), H. Laing and J. Anderson (Eyemouth
CC).
Apologies:- Councillors J. A. Fullarton
In Attendance:- Principal Solicitor (H. MacLeod), Pension and Investment Manager (K. Robb),
Estates Surveyor (T. Hill), Democratic Services Officer (W. Mohieddeen).

ADJOURNMENT

In absence of sufficient Members to constitute a quorum the Chairman adjourned the meeting to allow for others Members to attend the meeting.

The meeting resumed at 9.30 am on Thursday 7 April 2022.

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 13 December 2021.

DECISION

AGREED to approve the Minute for signature by the Chairman.

2. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 9 of Part I of Schedule 7A to the Act.

3. **SCOTTISH WATER COMPOUND SITE AT BROWNSBANK PARK**

Members considered the briefing note by the Estates Surveyor regarding use of Brownsbank Park as a compound site for Scottish Water.

The meeting concluded at 9.40 am.

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

Report by Principal Solicitor

Eyemouth Common Good Fund Sub Committee

13 September 2022

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 Eyemouth.**
- 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 Eyemouth 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 Eyemouth, 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 Eyemouth.**

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 3 of these responses related to Eyemouth. The responses are set out in Appendix 1. 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.

4.3 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 Eyemouth. Any changes from the draft register approved in December have been highlighted.

4.4 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.

4.5 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.

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 825002 T or email hannah.macleod@scotborders.gov.uk

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

Appendix 1: Submissions to Consultation and Officers' Responses

	Consultation Comment	SBC Response	Recommended action
1	Old cemetery	The cemetery was purchased in 1855 under the Burial grounds (Scotland) Act 1855. As it was acquired for statutory purposes, it is not Common Good.	No action
2	High street Old Cemetery, Watch house and Remembrance Garden	This property is not owned by SBC and it has not been possible so far to ascertain ownership. SBC grounds maintenance do upkeep this asset.	List this asset in the CG register as 'under investigation'
3	Land at old High School pitches	The old High School was not owned by the Burgh, but rather by the County Council Education Authority. Accordingly, it does not form part of the Common Good.	No action
4	Rose garden, Manse Road	This is the flower bed outside Library. The land was part of the roadway originally owned by the Church of Scotland and purchased by the County Council in 1966. As this area was not owned by the Burgh, it is not part of the Common Good.	No action
5	Memorial wood at Gunsgreen	The land owned by SBC at Gunsgreen was acquired by statutory conveyance in 1993 by Borders Regional Council. Since it was never owned by	No action

		the Burgh, it does not form part of the Common Good.	
6	The Bantry	The seafront was acquired from the Crown in 1975, acting under the Crown Estate Act 1961, for the purposes of obtaining title to carry out Coastal protection Works. It is not therefore a common good asset.	No action
7	The Loaning	The respondent has been asked for further information about where this asset is located. In the event that relevant information is provided, this query can be considered.	No current action
8	Community centre on Albert Road	This property was never owned by the Burgh Council and therefore cannot be Common Good. It was acquired by the school board in 1875 and 1879.	No action
9	Playing pitches Killedraughts Bay	This area forms part of land acquired by the Burgh for housing in 1975. It is not therefore a common good asset.	No action
10	Playparks at : Northburn Rd (SBC call this Coldingham Road park) Johns Road (SBC call this Gunsgreen park)	The land for this park was purchased by the Burgh in 1975 for the purpose of housing. It is not therefore a common good asset. This land was purchased in terms of the Physical Training and Recreation Act 1937, and further to Compulsory Purchase Order 1968 and is not therefore a common good asset.	No action

	The Bantry (SBC call this the Seafront park)	The land for this park was acquired from the Crown at the time of acquisition of the Bantry are for sea defences. As the land was acquired for statutory purposes, it is not a common good asset.	
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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.	See attached pdf
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.	See attached 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.	See attached pdf
ART AND ARTEFACTS			
Name of asset	Location	Description	
Lord Provost’s Chain	Eyemouth Museum		

ASSETS UNDER INVESTIGATION

Name of asset	Location	Description
Old Cemetery, Watch house and Remembrance Garden	High Street, Eyemouth	This property is not listed as an asset of SBC but is maintained by the Council. Ownership unclear.

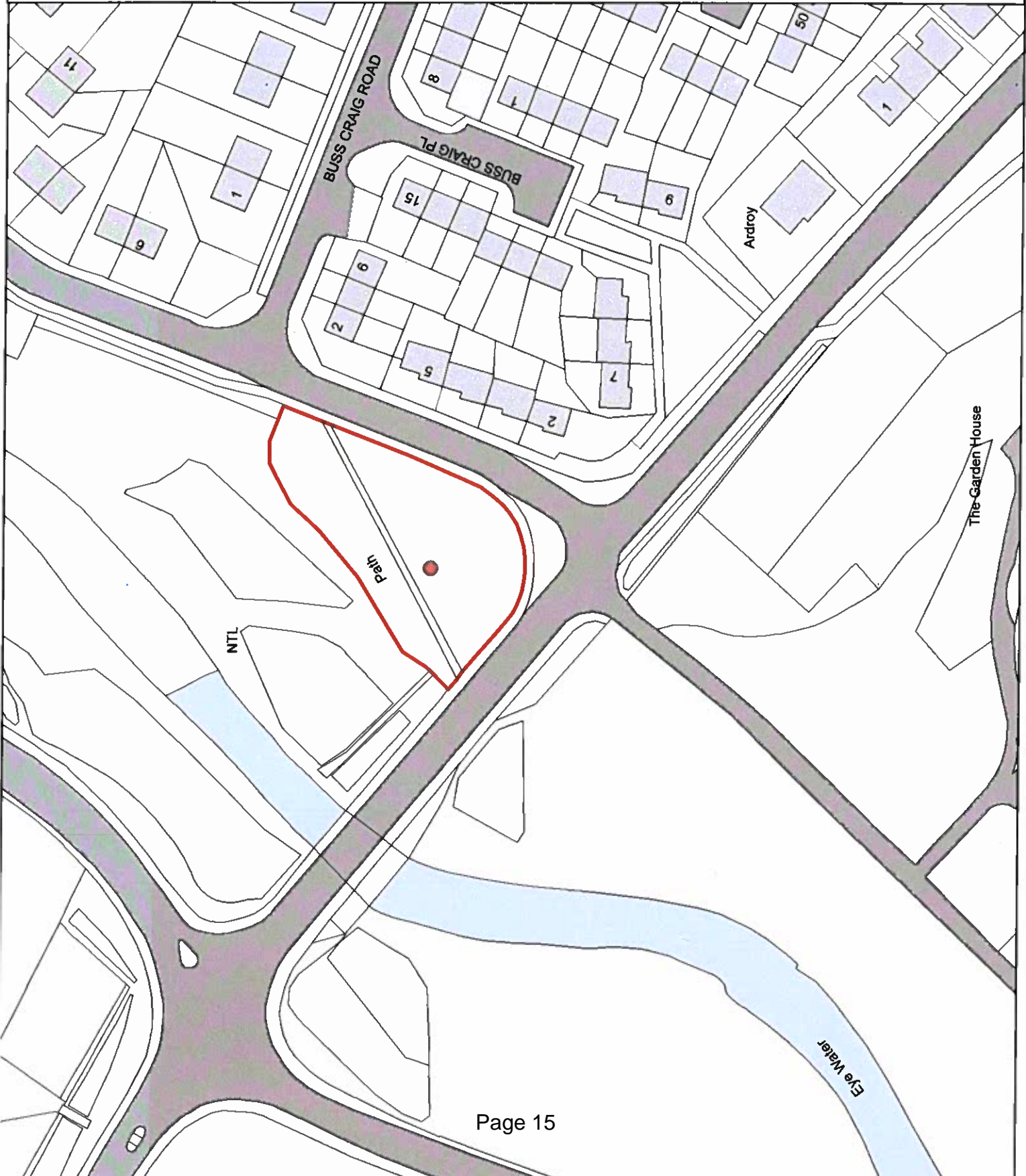


**Brownsbank Park
Brownsbank
Eyemouth**

EY016/01

Area: 1451m² O.T

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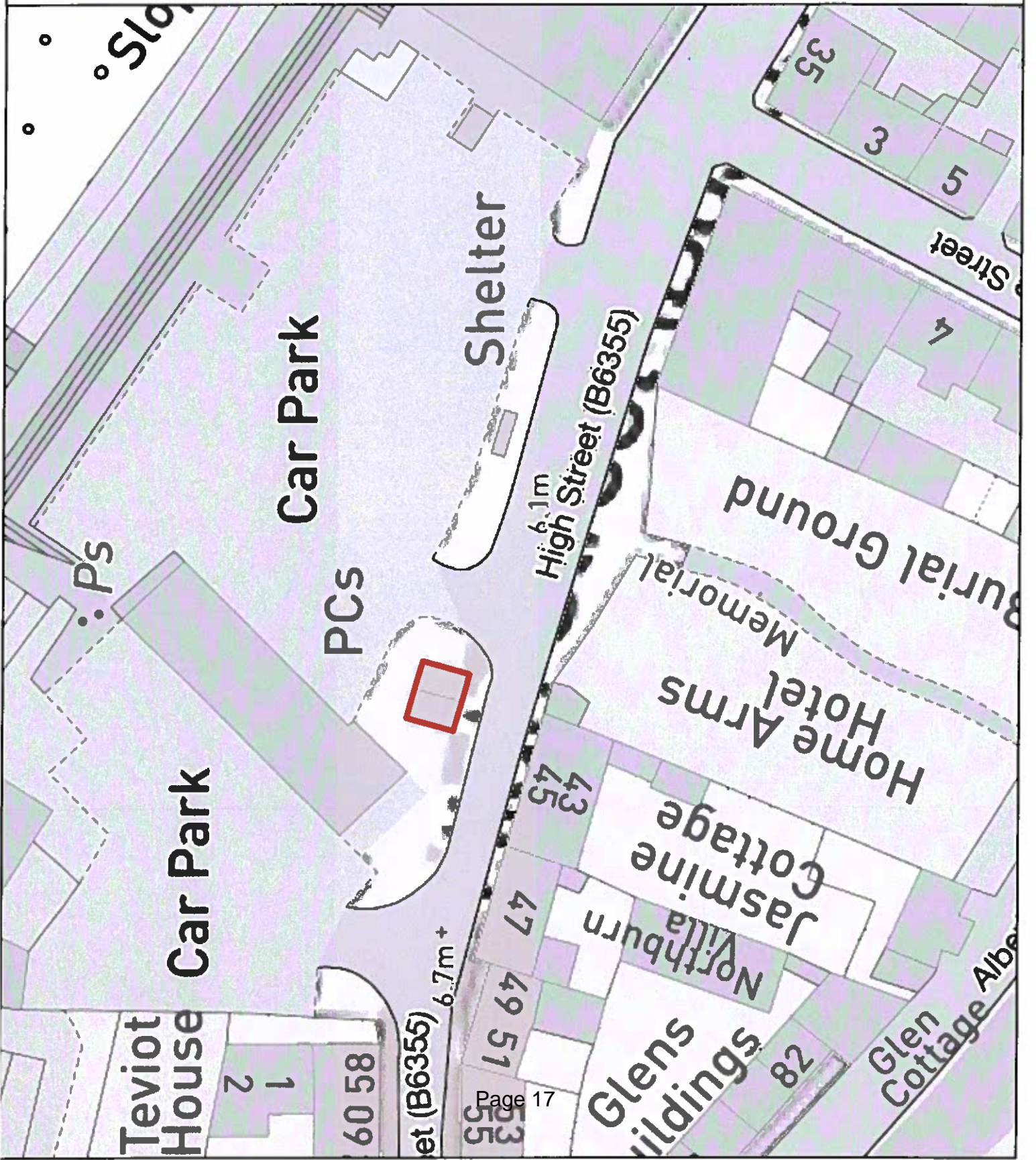
Toilets

High Street Toilets Eyemouth

Area: 31.60 sq m o.t.

EY017/02

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