

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

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

| Consultation Comment  | SBC Response  | Recommended action   |
|---|---|--|
| Should Heatherlie Park small play park be on Common Good register?  | <p>Part of the play-park sits on the same title as the car park at Heatherlie. This land was acquired by Ettrick and Lauderdale District Council in 1979. As it was not owned by the Burgh pre 1975 it cannot be common good.</p> <p>The remainder of the park site is less clear as during investigations a title deed has not been located. It has therefore not yet been possible to ascertain whether or not the asset should be listed as Common Good.</p> | <p>SBC to investigate the ownership of the remainder of the park, in case this might be common good. This to be noted on CG Register</p> |
| Should Selkirk Library and adjoin building be on the common good register?  | See comments on same query below.   | No action  |
| There is an area of land where the tennis courts are (north of A7) – should this be on the register?                  | <p>It is believed that the only land owned by the Council in this area is the tennis courts, which are not common good, having been acquired by the High school and never owned by the Burgh. The land adjacent to the tennis courts is privately owned.</p>  | No action  |
| On the basis of the Ruthin Castle 1944 judgement (Lord Wark) and the Wilson Inverclyde 2003 judgement at the Court of | The land was donated to Burgh Council for specified statutory purpose under Public Libraries Consolidation  | No action  |

|   |  |                  |
|---|--|------------------|
| <p>Session (Lords Osborne, Drummond Young and Coulsfield) the re-assignment of Selkirk Library and Governor's House to Selkirk CG Fund seems to be irrefutable.</p> | <p>(Scotland) Act 1887 with burden restricting use. It is therefore not Common Good. SBC has been in discussions with some members of the community about this matter for many years and SBC has obtained an Opinion from Senior Counsel on this matter which supports the view of SBC.</p> <p>No new information has been raised during this consultation which would suggest a different conclusion should be reached.</p>   |                  |
| <p>The Municipal Buildings may well have clear CGF ownership in common with the library. This should be looked into.</p>  | <p>The former Fire Station at the north end of the building was acquired by Ettrick and Lauderdale District Council in 1980 the Fire Board. As this was not owned by the Burgh it cannot be Common Good.</p> <p>The remainder of the property was purchased in 1905 by the Burgh Council for the express purpose of conversion to form Municipal Offices and adjuncts for the burgh, authorised under section 315 of the Burgh Police Act 1892.</p> <p>The Finance Committee minute of 4 Sept 1905 shows that loan repayments were made from the Police Account as opposed to the CG fund. These factors would suggest that the property is not Common Good.</p> | <p>No action</p> |
| <p>Selkirk Swimming Pool was built on CG land and should therefore be listed as a CG asset</p>  | <p>This property is currently listed as a Common Good asset.</p>   | <p>No action</p> |

|  |   |                           |
|--|---|---------------------------|
| <p>We request a review of the status of Halliwells House museum as the ownership would appear to be Selkirk CG after 15 May 1995</p>   | <p>This property was acquired in 1982, after the abolition of the Burgh system. It is not therefore be a common good asset.</p>   | <p>No action</p>          |
| <p>We request a review of the status of all the industrial units which were formerly mills, eg:</p> <ul style="list-style-type: none"> <li>- Dunsdale Mill</li> <li>- Argus Centre</li> <li>- Shepherd's Mill</li> </ul> | <p>It is the Council's view that these properties were acquired for industrial development and that this is evidenced by the contemporaneous minutes of the Town Council's Industrial Development Committee.</p> <p>Like the library, these assets have been discussed previously and no new information has been made available which would justify reconsideration of the Council's position.</p> | <p>No action</p>          |
| <p>The civic amenity site at Riverside is noted on the 1899 OS map as Common Good and should be reinstated as such.</p>  | <p>This site is on the Common Good register</p>   | <p>No action</p>          |
| <p>15 acres at Howdenhaugh are used by Scottish Water but do not appear to be owned by Scottish Water. This needs to be checked.</p>   | <p>This land was transferred by Act of Parliament to the East of Scotland Water Authority and is now within the ownership of Scottish Water.</p>  | <p>No action</p>          |
| <p>There are numerous listed items (see appendix 2) that are within the National Museum of Scotland.</p>   | <p>Items owned by the NMS cannot be Common Good assets. If any information is available about individual CG assets that have been loaned by the CG to the NMS, this information could be considered in order to determine the status of the items. Evidence of CG ownership would be required.</p>  | <p>No current action.</p> |

|   |   |                          |
|---|---|--------------------------|
| <p>Royal Burgh flags – should these be on the list?</p>                   | <p>A previous consideration of such flags and banners has noted that they are mainly trade banners and flags, not in the ownership of the Common Good. However, if there are specific examples of flags believed to be in the ownership of the Common Good, these can be considered on an individual basis. The Sub-Committee would require information describing the flag, its location, use and history.</p>   | <p>No current action</p> |
| <p>The 700 piece 'Craig Brown book collection' should be Common Good.</p> | <p>Although the collector of these books was local to Selkirk, there is no evidence to suggest that the collection has any particular or specific connection to the town that would mean it belonged to the Common Good, as opposed to the local authority. Firstly, Mr Brown was a resident of Galashiels before Selkirk and secondly, the items within the collection have an interest and relevance that stretches beyond that of the town. The test for establishing whether an item belongs to the Common Good requires the circumstances of the acquisition to be considered (ie was it clear that the donation was only to benefit the people of the town) and secondly, the nature of the item. In both these cases, it is the Council's view that there is insufficient evidence to suggest that this collection belongs to the Selkirk Common Good.</p> | <p>No action</p>         |

|   |   |                          |
|---|---|--------------------------|
| <p>The portrait of James Hogg is privately owned, unless there are two?</p> | <p>The portrait within Sir Walter Scott's courtroom is understood to be Common Good. Further information has been sought from the respondent.</p> | <p>No current action</p> |
| <p>James Hogg's bowman's outfit needs to be located</p>                     | <p>Further information concerning this item and its provenance has been sought from the respondent.</p>   | <p>No current action</p> |