
REVIEW OF HERITABLE ASSETS IN FORMER BURGH OF INNERLEITHEN

Report by Service Director Regulatory Services

SCOTTISH BORDERS COUNCIL

31 MARCH 2016

1 PURPOSE AND SUMMARY

- 1.1 **This report advises Members of the outcome of the work done to review the Heritable Property Assets held by the Council within the former Burgh of Innerleithen to ensure that the correct listing is recorded with the Accounts and Registers of the Council and seeks approval for the establishment of a Sub-Committee of Council for the Innerleithen Common Good Fund.**
- 1.2 The Council is required to maintain an Asset Register and an extract of this for the Town of Innerleithen is attached and forms Appendix 1 to this report. There is no direct correlation between the listed assets and a title-several assets may sit on one title and equally several titles may make up the landholding for one asset.
- 1.3 The Council's Legal Services have been reviewing the titles for all Assets held by the Council in all former Burghs to ensure that the Asset Registers are correct in relation to Common Good matters. The Legal Officers have been supported by Estates Officers and Financial Officers in this work which required examination of the former Burgh accounts as well as minutes.
- 1.4 From the work described above the following assets which are currently held on the General Account have been identified as assets which require to be recorded as Common Good assets:
- Memorial Hall (IN014/01/ 02/03)
- This asset was donated to the Burgh Council in 1919 and the donation included a declaration that the subjects were to be held for be hoof of (i.e. in trust for) the community of Innerleithen.
- 1.5 The Council's current Scheme of Administration does not provide for a Sub Committee to administer a Common Good Fund for the former Burgh of Innerleithen as at 1996 no assets were identified as being Common Good.
- 1.6 As these are amendments to the existing Register, the Chief Financial Officer will now put in place measures to amend the Register and the annual accounts accordingly.

2 RECOMMENDATIONS

2.1 I recommend that Council:

- (a) notes the amendment of the Council's Asset Register showing the Memorial Hall, Innerleithen as a Common Good Asset; and**
- (b) approves the establishment of a Sub-Committee of Council for the Innerleithen Common Good Fund, as detailed in Appendix 2, for inclusion in the Council's Scheme of Administration.**

3. REVIEW OF HERITABLE ASSETS IN FORMER BURGH OF INNERLEITHEN

- 3.1 Following significant and continuing pressure from residents and others in relation to the matter of Common Good Fund administration throughout Scotland in recent years, the Council's Legal Officers have been reviewing the titles etc for all assets held by the Council in all former Burgh's to determine the title position with regard to whether or not the records and Registers inherited by it from the previous Authorities were accurate.
- 3.2 As part of that programme the titles for all assets held on the Council Register which form part of the Annual Accounts were identified and located, and researched. Additionally the former minutes and accounts of the former Burgh Council were examined where questions arose as to the nature of the title of the asset. The appointed Solicitor was supported by staff from the Financial Services and Estates Divisions to assist with the review of the Accounts of the former Town Council.
- 3.3 Not all the former accounts have been available to this Authority following the various reorganisations of Local Government and the passage of time.
- 3.4 Assessments as to the nature of titles in each case were made with regards to the legal presumptions from Case Law as to what is Common Good, i.e. following the presumption in favour of former Burgh property being Common Good unless there is clear evidence to the contrary. Where there is no clear title and the Council has enjoyed open occupation it is assumed that the Royal Charter forms the basis of ownership.
- 3.5 An extract of the Council Asset Register for the town of Innerleithen as at 31 March 2013 is attached and forms Appendix 1 to this report. The research in relation to Innerleithen was completed and the resultant outcome is shown in the Appendix 1. The Common Good Fund Assets are also highlighted in the summary section of this report at 1.4.
- 3.6 As there is now an asset for Innerleithen Common Good Fund it is necessary to establish a Sub-Committee of Council to manage that asset. Details of the membership and remit of the Sub-Committee are given in Appendix 2.

4. IMPLICATIONS

4.1 Financial

The assets of the Innerleithen Common Good Fund will be properly accounted in the 2015/16 statutory accounts and the necessary adjustments to the Asset Registers and revenue budget will be actioned by the Chief Financial Officer.

4.2 Risk and Mitigations

- (a) The Council's primary aim is to have accurate Asset Registers. If the Council fails to amend the Asset Register to take account of the findings of the research it will be in breach of the accounts rules and the Council may be subject to adverse public comments and legal

challenge. The risk is mitigated by considering this report and the necessary changes to the Asset Register being carried out.

- (b) If the Council does not form a Sub Committee for the town of Innerleithen it may be seen to be acting less favourably to that community. This risk is eliminated by the creation of a Sub-Committee in similar terms to those already in the Scheme of Administration.

4.3 Acting Sustainably

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

4.4 Carbon Management

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

4.5 Rural Proofing

This is not a new policy matter.

4.6 Changes to Scheme of Administration or Scheme of Delegation

The Council's Scheme of Administration requires to be amended by the setting up of an Innerleithen Common Good Fund Sub-Committee.

5 CONSULTATION

- 5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

Approved by

Brian Frater

Service Director Regulatory Services

Signature

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