

Agenda Item	10
Report No	BSAC/05/21

THE HIGHLAND COUNCIL

Committee: Badenoch & Strathspey Area Committee

Date: 9 February 2021

Report Title: Kingussie and Grantown on Spey Common Good Funds

Report By: Executive Chief Officer – Communities and Place
Executive Chief Officer – Resources and Finance

1. Purpose/Executive Summary

- 1.1 This report provides background to the Kingussie and Grantown on Spey Common Good Funds, neither of which are currently being operated as active funds due to low balances.
- 1.2 Recent officer investigations have found assets belonging to the Kingussie Common Good Fund. This report details the process required to establish an Asset Register and what steps will be necessary to commence a public consultation under section 102 Community Empowerment (Scotland) Act 2015, which will lead to the establishment of a Kingussie Common Good Asset Register. Investigations are currently ongoing into property in Grantown on Spey and a report will be brought to a future committee on the establishment of a Grantown on Spey Common Good Asset Register.

2. Recommendations

- 2.1 Members are asked to:
 - i. Note the contents of the list of property proposed to be included in the Common Good Asset Register for Kingussie (**Appendix 1**).
 - ii. Agree the commencement of the public consultation on the list of proposed property for Kingussie in accordance with the Community Empowerment (Scotland) Act 2015.
 - iii. Note the position regarding the ongoing investigations into Common Good property in Grantown on Spey.

3. Implications

- 3.1 Resource – there are financial implications in re-activating the Common Good Funds in Kingussie and Grantown on Spey. Property may have been mis-classified for a number of years, and as a result both Common Goods will initially have property assets but minimal funds. The current arrangement is that all Highland Common Good Funds bear a proportionate cost of central overhead costs. The same will be expected of Kingussie and Grantown once an Asset Register is established and in the event that the assets generate income for the Funds. In addition, they will become subject to regular monitoring and reporting in line with the other Highland Common Good Funds.
- 3.2 Legal – Part 8 Community Empowerment (Scotland) Act 2015 introduced statutory duties which the Council must comply with in connection Common Good property. These duties apply to the establishment of the Asset Register and what needs to happen in the event of a proposal to dispose or change the use of Common Good property. Part 8 of the Act is supplemented by statutory guidance.
- 3.3 Community (Equality, Poverty, Rural and Island) – the duties contained in part 8 of the Community Empowerment (Scotland) Act 2015 are designed to increase community involvement in decisions affecting Common Good assets. This includes consultation on establishing an asset register and consultation on the disposal (by sale or long lease) or change of the use of Common Good assets.
- 3.4 Climate Change / Carbon Clever – no implications.
- 3.5 Risk – once the consultation commences timescales will apply and there is always a risk of non-compliance due to the requirements to fully investigate any representations received and the length of time these investigations may take, but this is mitigated by having clear processes in place.
- 3.6 Gaelic – no implications.

4. Background

- 4.1 Common Good assets are property including buildings, land, rights (e.g. fishing), artwork, regalia, furniture, stocks and shares and cash funds that belonged to the Burghs of Scotland (pre-1975). They are held by the Council principally for the benefit of the local community within the specified geographical boundary of the former burgh to which each fund relates and must be accounted for separately to other Council property.
- 4.2 Most Burghs are known as being Royal Burghs which were created by Royal Charter granted to the bailies or magistrates directly by the Crown. However, Burghs were also created in other ways. Two such examples of this are:
 - Burghs of Regality –the Scottish Crown gave tracts of land to trusted recipients considered to be key strategic partners who were trusted to dispense everything including justice. Burghs created by these recipients were known as Burghs of Regality. Grantown on Spey is categorised as such a Burgh. It then became a Police Burgh in 1898.
 - Burghs of Barony – these could be created by Barons following the receipt of lands, usually from the Crown. The powers of such Burghs were less than those

of Royal Burghs and Burghs of Regality, but they still often included the right to hold Courts and create monopolies of trades. Kingussie is categorised as such a Burgh. It then became a Police Burgh in 1867.

- 4.3 There is no firm definition of Common Good property, however established case law states that all property held by a former Burgh prior to 1975 is Common Good property unless it has been acquired using statutory powers or acquired and held under a special trust. No new Common Good property can be created and only those assets held by the former Burgh prior to 1975 can be classified as Common Good. Kingussie and Grantown on Spey still have Common Good funds which reflect small cash balances but no heritable property. However, investigations have taken place and, in accordance with the “definition” above, property has been identified which should be reclassified as Common Good.

5. Kingussie Common Good Fund

- 5.1 The Kingussie Common Good Fund currently has a residual balance of £244.01.
- 5.2 Investigations have been undertaken into possible Common Good property in Kingussie. Attached at **Appendix 1** is the list of property identified so far. If agreed, this list will be used to commence the consultation leading to the establishment of the Asset Register – process detailed below.

6. Grantown on Spey Common Good Fund

- 6.1 The Grantown Common Good Fund currently has a residual balance of £248.48.
- 6.2 Investigations into possible Common Good property in Grantown on Spey are ongoing with information currently being collated. A list of proposed property will be brought before a future Area Committee and permission sought for a consultation leading to the establishment of an Asset Register for that fund.

7. Asset Register consultation process

- 7.1 Section 102 of the Act places a duty on local authorities to establish and maintain a Common Good Register. The statutory guidance provides the procedure for the consultation and a recommended format for the Asset Register. To assist anyone wishing to make representations in the consultation, a document entitled ‘Common Good Property Asset Register – Process’ has been produced and published on the Council website. A copy is attached at **Appendix 2**.
- 7.2 The process for the public consultation is:-
- The Council must publish the list on its website. It should also be available for viewing in Council offices, hubs and libraries but this will not currently be possible due to the ongoing Covid 19 situation. However, people can request a copy of this given that these premises are not currently open.
 - The Council must advertise the fact the list is available to view on its website and social media pages. In the current circumstances, there may be merit in an advert in the local press to ensure wide notification.
 - The Council must notify community councils and any community bodies of which it is aware and invite representations.

- The Council will also accept representations from any member of the public.
- The list must be publicly available for comment for 12 weeks.
- All representations must be in writing, either email or letter.
- The Council should seek to respond to representations within 12 weeks.
- Representation(s) and the Councils final response(s) should be published in the same place as the asset list.
- The Council should publish its Common Good Asset Register as soon as practicable after the initial 12 week consultation period and, in any event, within 6 months of the end of the consultation.
- The Register must be available to view free of charge on the Councils website and in Council offices, hubs and libraries (see comment above regarding this).

The guidance states that once the Council has fully considered a representation, its decision is final unless significant new information comes to light or a court decides otherwise. This effectively removed the potential of the Council receiving repeated representations in respect of the same asset where there is no new information and the query has already been dealt with.

- 7.3 If a representation is received it will be fully investigated by the Common Good Fund Officer. Members will be kept up to date on any representations received and of the outcome of any investigations.
- 7.4 The guidance envisages the possibility that some representations may result in protracted enquiries extending beyond the date by which the Register is to be published. Provision is made to allow for the Register to be published in partial form. However, based on the experience of the consultation resulting in the publication of the existing Registers, it would be preferable to be in a position to publish the Register in its final form rather than piecemeal.

8. Disposal or change of use of Common Good property consultation process

- 8.1 There is currently interest from community groups about Community Asset Transfers of property that has been identified as possible Common Good within Kingussie. Any proposal to dispose, by sale or long lease of 10 years or more (in Highland) or change the use of Common Good property triggers a requirement on the part of the Council to conduct a public consultation under the Act. Details of this consultation process are outlined at points 8.2 – 8.5 below.
- 8.2 Section 104 Community Empowerment (Scotland) Act 2015 requires the Council to consult with the local community when planning to dispose of, or change the use of any of its Common Good assets. Section 105 requires local authorities to have regard to the contents of the guidance when carrying out this duty. To assist anyone wishing to make representations in the consultation, a document entitled 'Disposal of or Change of Use of Common Good Property – Process' has been produced and published on the Council website. A copy is attached at **Appendix 3**.
- 8.3 The process for the consultation is:-
- A proposal is prepared identifying the property and stating clearly what is proposed and expected timescales.
 - The Council must publish the proposal on its website and make it available for viewing in Council offices, hubs and libraries.

- The Council must advertise the fact the proposal is available to view on its website and social media pages.
- The Council must notify any community council in whose area the property was located prior to 16 May 1975, and any community body known to have an interest in the property and invite representations.
- The Council will also accept representations from any member of the public.
- The consultation must be publicly available for comment for 8 weeks.
- All representations must be in writing, either email or letter.
- The Council should respond to representations within 8 weeks.
- The Councils final response(s) should be published alongside the original representation(s).
- The Council must also publish its final decision and notify directly community councils, community bodies and anyone who has made a representation.
- If the proposal is amended significantly a fresh consultation process must take place.

8.4 In respect of the final decision on a proposal to dispose of or change the use of a Common Good asset, the current Scheme of Delegation provides that the City of Inverness/Area Committees have the delegated authority to oversee the management of the Common Good funds including disposing of such assets up to 10% of the value of the fund for the particular area, with anything over 10% being reserved to Highland Council.

8.5 Some Common Good property may be considered to be inalienable which means the Council is restricted from disposing or changing the use of it without first obtaining the authority of the Sheriff Court. This is a statutory requirement contained in section 75 Local Government (Scotland) Act 1975. There are 3 categories of inalienable property:

- Use from time immemorial – public use should have been enjoyed without interruption for a lengthy period of time
- Dedication for public use – it is stated specifically what the property is to be used for.
- Arising from grant – it is clearly stated in the deed/gift what the intention of the grant/gift is to be.

9. Review of the Common Good Asset Register

9.1 The duty in section 102 to maintain the Asset Register includes undertaking regular reviews. The Asset Register will be updated in the event of a disposal of an asset or if any new property (either newly identified or acquired investment property) needs to be included. In any event, the guidance provides that a review must happen at intervals of no more than 5 years.

10. Practical considerations

10.1 The current focus has been on identifying possible property that needs to be reclassified as Common Good. However, it must also be recognised that, at present, the funds of financial assets available to be considered as Common Good in Kingussie and Grantown on Spey are minimal, and, in due course, a strategy will be required to consider how to encourage income generation from the reclassified assets.

- 10.2 Following the abolition of the burghs in 1975, Common Good property passed to the new authorities (District and Island Councils). As part of this, a requirement for the authorities to account separately for the Common Good funds was imposed. Highland Council provides financial monitoring reports to all Area Committees in respect of the Common Good funds within their area and all funds are included in a separate section in the Annual Accounts. Similar arrangements will need to be re-established in respect of the Kingussie and Grantown on Spey Common Good funds following publication of the Asset Registers.
- 10.3 In Highland, the general Common Good policy is that Common Good property is maintained, where possible, by the relevant fund. In respect of most (although not all) of the currently operating Highland funds, they have financial assets, income generating assets and reserves which allow them to undertake such maintenance. This will not immediately be the position in respect of the Kingussie and Grantown on Spey Common Good funds as work is required to review the assets of the fund to consider what income generating opportunities there may be in order for the fund to take on maintenance responsibilities. It is important to understand that Common Good property is owned and managed by the Highland Council having regard to the inhabitants of the former Burgh. It is a requirement that Common Good funds are accounted for separately. Therefore, the responsibility for maintenance will continue to fall to the Council until such time as Kingussie and Grantown on Spey Common Good funds are in a position to take on such responsibility.

Designation: Carron McDiarmid, Executive Chief Officer, Communities and Place
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Date: 26 January 2021

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Background Papers:

Appendix 1

LIST OF PROPERTY PROPOSED TO BE INCLUDED IN THE HIGHLAND COMMON GOOD FUND ASSET REGISTER IN RESPECT OF THE FORMER BURGH OF KINGUSSIE

LAND AND BUILDINGS		
<p>In 1464 Kingussie was created a burgh of barony by King James III in favour of Alexander Gordon, 1st Earl of Huntly. It then became a Police Burgh in 1867.</p>		
Name of asset	Location	Description
Ardvonie Car Park	<p>Gynack Road, PH21 1HE. CAGUPRN: 130112555 Bordered by Tait's Brae Play Park and the surgery to the north, part of Tait's Brae Play Park on the east, Moray Bank on the south and Tait's Brae Play Park and the toilets on the west.</p>	<p>Site area: 2100m². The area of the car park was acquired in the same deed as Tait's Brae play park. Title deed: Trustee of James E B Baillie (Nellie Lisa, Baroness Burton) to Provost, Magistrates & Councillors of Burgh of Kingussie recorded 8 March 1956. Land is subject to the condition that the land is for use as a recreation ground and for no other purpose. Inalienable.</p>
Tait's Brae Play Park	<p>Ardvonie Road CAGUPRN: 130112542. Bordered on the north west be the rear of properties Ardvonie to Spey cottage on south of Old Distillery Road, on the west and south west by Tait's Brae/Ardvonie Road, on the south east by the rear of Mcinnes Cottage, Tigh-na-Beag and Duke of Gordon Hotel, continuing around Ardvonie Car Park and the Surgery to the eastern border at the rear of properties Ardmore to Tom Liath.</p>	<p>Site area: 11,200 m² approx. The area of the playing fields was acquired by the same deed as the land now used as Ardvonie Car Park. Title deed: Trustee of James E B Baillie (Nellie Lisa, Baroness Burton) to Provost, Magistrates & Councillors of Burgh of Kingussie recorded 8 March 1956. Land is subject to the condition that the land is for use as a recreation ground and for no other purpose. Inalienable.</p>
Market stance (Livestock market) and shinty pitch	<p>Ruthven Road, PH21 1ER. CAGUPRN (Pitch): 130112545. Bordered on the north by Market Lane, on the east by Ruthven Road, on the south by open land and on the west by open land, Kingussie Recycling Centre/Civic Amenity Site and lane adjacent to light industrial units but excluding the area now owned by Northern Co-operative Society – area sold by Badenoch & Strathspey District Council in 1977.</p>	<p>Site area: 15,700 m² or thereby. Title deed: Feu Charter by Trustee of James E B Baillie (Nellie Lisa, Baroness Burton) to Provost, Magistrates & Councillors of Burgh of Kingussie recorded 23 January 1947. Land is subject to the condition that it is "for the purpose of being used as a Playing Field for the use of the inhabitants of the said Burgh of Kingussie and for no other purpose without consent". However, it is also declared that it may be used for "markets and for Travelling Shows and Circuses". The deed also provides that it must remain unbuilt upon for all time coming with the exception of a</p>

		<p>pavilion for use in connection with recreation.</p> <p>Inalienable.</p> <p>Northern portion is leased for use as a livestock market and the lower portion is occupied by Kingussie Camanachd Club.</p>
Putting Green	<p>Spey Street, PH21 1EL. CAGUPRN: 130112547.</p> <p>Rectangular piece of land bordered on south by railway line, on west by eastern boundary of Gynack Lane, on north by Spey Street and on east by the western boundary of the Bowling Green and land belonging to the Hon. Alexander James Baillie of Dochfour (this land lies between the southern boundary of the Bowling Green and the railway line).</p>	<p>Only part of the putting green is Common Good, the rest is privately owned.</p> <p>Common Good area: 2025 m² approx.</p> <p>Title deed: Bank of Scotland to Provost, Magistrates & Councillors of Burgh of Kingussie recorded 22 February 1967.</p> <p>Land was gifted for use solely as a putting green and garden ground.</p> <p>Inalienable.</p>
Putting Green sheds and adjacent land	<p>Spey Street, PH21 1EL. CAGUPRN: 130112547.</p> <p>Bordered on the north by Spey Street, on the east by the lane separating this land from the Putting Green, on the south by the railway line and on the west by the Gynack Burn.</p>	<p>Site area: 480 m² approx.</p> <p>Title deed: James Evan Bruce Baillie of Dochfour to Provost, Magistrates & Councillors of Burgh of Kingussie recorded 2 November 1923.</p> <p>Land was gifted for the purposes of the erection of 2 low buildings to be used as stores and for no other purpose.</p> <p>Land is land of the Burgh not acquired for statutory purpose or held under a special trust and therefore, is considered to be Common Good.</p> <p>Inalienable.</p>
Clock Tower and land for location of Clock Tower.	<p>East Terrace.</p> <p>Land for the location of the Clock Tower is bordered on the east and south by land that is privately owned (properties Cnoc Ard and Villa Latina), on the west by Ardbroilach Road and on the north by East Terrace.</p> <p>The Clock Tower is located on this land approximately 40 metres east of Ardbroilach Road.</p>	<p>Site area of location land: 420 m² approx.</p> <p>The gift of the Clock Tower and the land for its location are contained in separate titles.</p> <ul style="list-style-type: none"> • Clock Tower: The Tower bears the inscription – “This tower and clock were gifted to the Burgh of Kingussie by John Duncan McGruer Esq. Invercargill, New Zealand, a native of the town. 1925 “Mar Chuimhneachan””. • Location – Title deed: William Wolfenden & William McGruer to the Provost, Magistrates & Councillors of the Burgh of Kingussie recorded 16 December 1925.

		Land was specifically acquired and gifted for the purpose of the erection of the Clock Tower and for use as a “pleasure ground or open space for the use of the inhabitants of the Burgh of Kingussie in all time coming”. Inalienable.
ART AND ARTIFACTS		
Name of asset	Location	Description
Provost Chain of Office	Am Fasgadh Folk Museum Kingussie	Solid silver chain set with gemstones dating from 1960’s. This is a replacement of the original Provost Chain whose whereabouts is unknown.
COMMON GOOD FUND		
Name of asset	Location	Description
Kingussie Common Good Fund	N/A	Fund set up for benefit of former Burgh of Kingussie. Financial information about this fund is contained within the Annual Accounts and Area Committee monitoring reports which are available on the Highland Council website.

HIGHLAND COUNCIL

COMMON GOOD PROPERTY ASSET REGISTER – PROCESS **REVIEWING COMMON GOOD PROPERTY ASSET REGISTER - PROCESS**

A. INTRODUCTION

The Community Empowerment (Scotland) Act 2015 Part 8 came into force on 27 June 2018. It seeks to increase transparency about the existence of common good assets and to ensure there is community involvement in decisions taken about their identification, use and disposal.

The Act places duties on local authorities to establish and maintain a common good register (section 102) and to undertake a consultation process before taking any decision to dispose of or change the use of a common good asset (section 104).

This document details the process the Highland Council must follow to establish the register and to review the register. The process for disposing of or changing use of a common good asset is contained in a separate document.

B. ESTABLISHING THE COMMON GOOD REGISTER

1. First step

Before establishing the register, the Council must publish a list of all the property it is proposing to include. This list must include not just land and buildings but also the moveable items like official regalia (chains and robes), furniture and art works as well as a reference to the income funds.

The list must include enough information about each item to allow it to be identified. The type of information might be – name, postcode, property reference number, description, whether it is leased out (information disclosed in this regard will be subject to commercial confidentiality).

The Council must undertake consultation on the contents of the list to allow the community the chance to make a case for property to be included in or excluded from the register.

2. Consultation

2.1. Publishing and advertising the list

- The list will be published on the Council's website. It will also be available to view in person at local council offices, council hubs and libraries. Availability in these places may be by paper copies or staff assistance to view online. Copies of the list will also be made available in other languages or formats if requested.
- The Council will advertise the fact the list is available to view on its website and social media pages as well as in Council publications.
- The Council must make contact with community councils and any community bodies and tell them of the availability of the list so they can consider it and make any representations. The Council will use such means as are available to identify community bodies and seek to ensure that all relevant bodies are notified.

- It is not only community councils and community bodies that can make representations and the Council will accept representations from any person/body wishing to make them.
- The list will be publicly available for viewing for a minimum of 12 weeks to allow for consideration and representations to be made.

2.2. Making representations

- All representations must be made in writing either by letter or email stating clearly the land, building or item referred to and giving reasons why it should or should not be included in the register. The contact for submission of representations will be clearly stated in the proposal document
- When the consultation is opened a closing date for the receipt of representations will be stated.
- All representations received will be published on the Council's website in the same place as the list. The person/body making the representation will be identified by name but any signature and/or other personal information will be blacked out.

2.3. Responding to representations

- The Council will investigate the contents of any representations received. Common good property is unique and historical and some investigations may need to be more extensive involving other agencies and will take longer than others to resolve as a result. However the Council will aim to respond within a 12 week period.
- The Council will publish its final response alongside the original representation. The Council is only required to consider a similar representation in respect of the same asset if there is significant new information or a court decision.

3. Publishing the common good register

- The Council has from the end of the initial 12 week period to 6 months after the end of the consultation to publish the common good register.
- The register will be published even if there are still ongoing investigations in respect of some assets. This will be noted on the register and an appendix produced giving information on progress and the expected date of completion of enquiries. In the event of a number of ongoing enquiries, the appendix will give an indication of the order that the enquiries will receive attention.

4. Accessing the common good register

- The register will be publicly available to inspect free of charge.
- The register will be accessible on the Councils website. It will also be available in local Council offices, hubs and libraries. Availability in these places may be by paper copies or staff assistance to view online. Copies of the register will also be made available in other languages or formats if requested.

5. Updating the register

- The Council must update the register if new property is identified or any existing property is disposed of.
- Any amendment following acquisition or disposal will be done in the same financial year as the property is acquired or disposed of.

C. REVIEWING THE REGISTER

- The Council aims to conduct an annual review of the common good register to ensure details held for any property continue to be up to date and any conditions/requirements are being complied with.
- For Inverness, the review process will involve the City Area Manager, Common Good Fund officer and officers from the finance, property and estates teams.
- In respect of the other Highland common good funds, the review will be conducted by the Senior Ward Manager for the area concerned together with the Common Good Fund officer.
- The register will be updated with any amendments resulting from the reviews of the various Highland funds as soon as practicable but in any event **within 4 weeks of the final area review having been completed.**

HIGHLAND COUNCIL

DISPOSAL OF OR CHANGE OF USE OF COMMON GOOD PROPERTY – PROCESS

A. INTRODUCTION

The Community Empowerment (Scotland) Act 2015 Part 8 came into force on 27 June 2018. It seeks to increase transparency about the existence of common good assets and to ensure there is community involvement in decisions taken about their identification, use and disposal.

The Act places duties on local authorities to establish and maintain a common good register (section 102) and to undertake a consultation process before taking any decision to dispose of or change the use of a common good asset (section 104).

This document details the process the Highland Council must follow for disposing of or changing use of a common good asset. The process to establish the register and to review the register is contained in a separate document.

B. DEFINITIONS

1. Disposal

This means to transfer out of the hands of the local authority. The most obvious example of a disposal is a sale of an asset although a lease or other arrangement giving a third party ascertainable rights of beneficial occupation may also qualify.

The Highland Council will treat any lease of 10 years or more as being a disposal for consultation purposes.

2. Change of use

- In some earlier legislation relating to common good this has also been called “appropriation”. It covers a situation where a local authority may want to change the use of a common good asset from one purpose to another.
- The Act does not define “change of use” therefore the Council will seek to adopt a common sense approach when considering this matter.
- The Scottish Government guidance has confirmed that, in relation to cash funds, change of use would not cover every payment to different people or moving investments about but would include changing the rules regarding what types of things could be funded.

Every situation is different so the question of change of use will depend on the particular circumstances but change of use consultation is likely to result from a situation where the nature of the existing use and the new use are distinctly different and not incidental to each other. Some examples are given below for illustration purposes only and other situations may occur.

Some possible examples where change of use would require consultation:-

- Change of retail premises to industrial manufacturing.
- Change of park to a school site.

- Change of retail premises to residential premises.

Some possible examples where change of use would not require consultation:-

- Change of one tenant to another if use remains the same – commercial, retail etc.
- Change of business being operated if the same in general – one type of retail business to another.

3. Alienable common good property

- This is property where there is no specific restriction or prohibition preventing disposal or change of use.
- In this case the Council can deal with the property as it would any other council property subject to the duty to carry out the consultation process referred to in this document and also having regard to the principles of best value and the interests of the residents within the boundaries of the former Burgh to which the particular fund relates.
- Examples can be land, buildings, fishing rights.

4. Inalienable common good property

- This covers property where there is some specific restriction preventing disposal or change of use or if there is some question that there may be.
- In this case the Council must apply to the Sheriff Court or Court of Session to authorise the disposal or change of use. It is possible for interested parties to respond to the Court action.
- Property is considered to be inalienable if the restriction or purpose is clearly stated in the deed or gift, it has been specifically dedicated for public use or it has been used in a certain beneficial way for a lengthy period of time (time immemorial).
- Examples can be public buildings like town halls, markets, grounds set apart for the enjoyment of the inhabitants of the former Burgh.

C. CONSULTATION

1. First step

- The Council will form a view that it wishes to dispose of or change the use of a common good asset and prepare a proposal. The decision to initiate the consultation process will be made in accordance with the Council's Scheme of Delegation and governance procedures. This means that Area Committees have the power to deal with assets valued at up to 10% of the fund value for their particular area with anything above that being reserved for the full Council.
- Consideration will also need to be given to whether an asset is alienable or inalienable – see above.

- The Community Empowerment consultation will precede any planning process which is a completely separate procedure.

2. Publishing and advertising the proposal

- The proposal will identify the property concerned using the same information as is contained in the asset register. It will clearly state what is being proposed including anticipated timescales for completing the disposal or change of use.
- The proposal will be published on the Council's website. It will also be available to view in person at local council offices, council hubs and libraries. Availability in these places may be by paper copies or staff assistance to view online. Copies of the proposal will also be made available in other languages or formats if requested.
- The Council will advertise the consultation on its website and social media pages as well as in Council publications and (in some circumstances) local newspapers. Consideration may also be given to holding public meetings depending on the asset concerned and the nature of the proposal – for instance if it is likely to affect a large number of people.
- For buildings or land, the Council will put up public notices on or near the property and in locations where local notices are normally advertised – shop, information points and noticeboards.
- The Council must notify any community council whose area includes all or part of the property concerned as well as any community body known to have an interest in the property and invite them to consider the proposal and make representations.
- However the Council will also accept representations from any person/body wishing to make them.
- The proposal will be publicly available for viewing for 8 weeks to allow for consideration and representations to be made. The 8 week period will not include the first or the last day of the consultation period or any public holidays that may fall within the consultation period.

3. Making representations

- All representations must be made in writing either by letter or email. The contact for submission of representations will be clearly stated in the proposal document.
- When the consultation is opened a closing date for the submission of representations will be clearly stated.
- All representations received will be published on the Council's website in the same place as the proposal. The person/body making the representation will be identified by name and address but any signature and/or other personal information will be blacked out.

4. Responding to representations

- The Council will aim to respond to any representations within 8 weeks of receipt with the responses being published alongside the original representations.
- Section 104 (6) Community Empowerment Act states that a local authority “must have regard to” any representations made when deciding whether or not to dispose or change the use of Common Good property.
- The Council will also publish its final decision about the proposal alongside the proposal, representations and responses. Community councils, community bodies and anyone who made a representation will be sent direct notification of the outcome.

5. Further consultation

The Council will conduct a further full consultation on the proposal if it is amended significantly in response to changing circumstances or representations received.

D. FURTHER ACTIONS IF THE PROPOSAL IS APPROVED

- If the property is alienable, the Council will proceed with all appropriate steps to give effect to the disposal or change of use.
- If the property is inalienable, an application for the approval of the Court will be necessary. A positive response to the proposal consulted on will be useful evidence in support of any application. Any interested parties may lodge responses within the Court process which is completely separate to the Community Empowerment process.