

| | |
|-------------|-----------------|
| Agenda Item | 6. |
| Report No | NC/12/21 |

THE HIGHLAND COUNCIL

Committee: Nairnshire Committee

Date: 23 June 2021

Report Title: Nairn Common Good Fund: Consultation on proposal to dispose of Sandown Lands for development

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

1. Purpose/Executive Summary

1.1 This report provides information on the outcome of the public consultations under section 104 Community Empowerment (Scotland) Act 2015 which proposed to dispose of Sandown Land, Nairn by sale for development.

2. Recommendations

2.1 Members are asked to:

- i. Note the outcome of the consultation process undertaken as contained in the analysis at **Appendix 1**.
- ii. Consider and agree the responses to the representations raised in connection with the proposal as outlined in the table at paragraph 2 (b) of **Appendix 1** and approve publication of the same on the Council website and notifying to those who have responded within the consultation.
- iii. Agree that to allow time for full reflection and assessment of all comments received, a decision on the outcome of the consultation will be considered at the next meeting of the Nairnshire Area Committee.
- iv. Note that given the value of the asset, the decision on the outcome of the consultation will rest with Highland Council and Members of the Nairnshire Committee will be asked to make a recommendation to the Council.

3. Implications

- 3.1 Resource – There are no direct resource implications as a result of the decisions contained in this report. The proposal for Sandown Lands relates to the principle of being in a position to sell part or all of the land for development at a future date dependent upon market circumstances. Sandown is a significant asset of Nairn Common Good Fund and any decision to dispose will not be taken quickly or without all necessary advice being obtained. The Council is obliged to obtain best value for any such transactions and this obligation extends to disposals of Common Good land. Any sale would represent a permanent reduction in the Nairn Common Good Asset portfolio, and it is for this reason that great care will be taken in the decision making with full regard to the interests of the inhabitants of the former Burgh being taken into account.
- 3.2 Legal – Under the terms of the Community Empowerment Act, a public consultation must be undertaken to seek the views of the community prior to any decision being taken on disposal of an asset by sale or lease. This report summarises the outcome of the statutory public consultation. Where land is also considered to be inalienable, there is a statutory requirement to seek Court approval to the disposal. Sandown Lands are considered to be inalienable Common Good land and therefore, should the proposal be agreed, the requirement to seek Sheriff Court approval must also be complied with.
- 3.3 Community (Equality, Poverty, Rural and Island) – The current use of Sandown Lands, with the exception of the allotment gardens which are specifically excluded, is for agricultural use on 8 month tenancies. The realisation of the asset for disposal for development would allow for a much more varied and smarter use of the land to be considered including the provision of housing, leisure, retail and community spaces as well as green space and retention of wetlands in line with the existing Sandown Development Brief. Any sale proceeds would also provide capital investment funds for Nairn Common Good and the town. The provision of affordable housing, which is one of the potential benefits of utilising this land, would have a positive socio-economic benefit to those within the community on lower incomes.
- 3.4 Climate Change / Carbon Clever – Any use of the land for housing would allow subsequent planning considerations and conditions to address green and environmentally friendly construction and installation materials and methods. The current proposal excludes the existing allotments and proposed extension. The proposal to dispose would be in line with the Sandown Development brief which includes provision for green space and the retention of wetlands.
- 3.5 Risk – There will always be a risk of volatility in the market and this, combined with the current impact of Covid, is why the proposal is **not** seeking disposal of the proposal now. The consultation and Court application process is lengthy and, as a result the Council cannot act quickly to take advantage of short term improvements in market conditions. However, by seeking approval for the disposal in principle, the Council would be able to

react quickly to changing market conditions to ensure best value for Nairn Common Good Fund.

3.6 Gaelic – none.

4. Consultation in respect of Sandown Lands

4.1 The consultation on the proposal to sell Sandown Lands for development was opened on 16 November 2020. For ease of reference a copy of the consultation document is included at **Appendix 2**. Direct notification was given to the 2 Community Councils in the town of Nairn as well as the 3 Community Councils covering the rest of Nairnshire. Direct notice was also given to a number of community bodies. This is in line with the requirements of the Community Empowerment Act. The consultation was published on the Council website and advertised on Council social media, by newspaper advert in the Nairnshire Telegraph and by the putting up of notices in the library, community centre and leisure centre when they were open. In addition, there were press releases issued on the Council website and in the Nairnshire Telegraph.

4.2 The minimum requirement for the public availability of the consultation is set out in the statutory guidance to the Community Empowerment (Scotland) Act 2015 and is 8 weeks however, due to the proximity of the festive period and the ongoing Covid19 restrictions an additional period of more than 4 weeks was allowed. Following a request from Nairn River Community Council, a further 2 week extension was also allowed resulting in the consultation being publicly available for comment until 26 February 2021 (a total of 15 weeks).

4.3 The consultation seeks comment on the principle of disposal by sale rather than any specific plans to proceed to sale immediately. This is to reflect the length of time the consultation process will take and, if approved by Council, the further period required to accommodate the Court application due to the inalienable nature of the land. Taking this step at this stage without any firm plans for an actual sale is seen as putting the Council on behalf of the Common Good fund in Nairn in the best position to take advantage of and sharp improvements in the market position and obtain the best possible value for the Common Good Fund. The Council is required to ensure Best Value as part of its management of Common Good Funds.

5. Analysis of the consultation

5.1 Under the terms of the Community Empowerment Act, the representations received under any consultation must be considered, responded to and published. The analysis of the consultation is attached at **Appendix 1**. It differs from the usual Highland analysis document in that it contains a full summary of every response received resulting in a document that is far longer than would usually be the case and featuring a number of comments that are repeated throughout the document. The usual format would be to provide a detailed analysis but if the same issue is repeated it is only referred to once

and answered once. However, in the case of this consultation, a request was made by some members of the community to publish every representation in full on the website. This was considered but felt to be impractical and not particularly user friendly for members of the public to read through. However, in recognition of the significance of this proposal, the considerable level of public interest in the consultation and the representations received, and also by way of compromise and in the interests of transparency and to provide assurance and confidence to the community in the process, the analysis document is a full summary of each response received with each representation detailed and a response given. Where representations raise the same issue, and a response has already been provided, this is referenced within the document. This will result in the publication of a single document on the website containing all relevant information which will be much more accessible to the community.

5.2 A total of 98 responses were received. The responses were broken down as follows:

- 3 supported the proposal.
- 10 made some comments for and against.
- 85 objected to the proposal

4 responses simply said they objected but raised no issues – they are included in the total figures but not referred to in the table contained at paragraph 2 (b) of **Appendix 1**. All comments received under separate cover have been counted separately even if generated from the same household. Representations submitted jointly in a single response have been counted only once.

5.3 Supportive comments are detailed at paragraph 2 (a) of **Appendix 1**. Some of those responding have also made comments against or raised concerns/issues requiring a response from the Council. In those circumstances they are also included in the table at paragraph 2 (b).

5.4 In compiling the responses on behalf of the Council in respect of the representations made, information has been gathered from a number of Officers and Services including from property, housing, estates, planning, finance, policy, governance and common good.

6 Next steps

6.1 This report asks Members to consider the representations received and agree the responses provided which are set out in **Appendix 1**. The representations raise a number of questions which have been answered, raise points which require clarification - sometimes in relation to understanding of legislation or process - and also a number of concerns about the impact of the proposal. Some responses have also proposed alternative uses for the land or different ways of considering disposal.

6.2 The proposal to seek to dispose of Sandown Lands is an important decision as it is a major asset within Nairn Common Good Fund. The analysis of the consultation is a

lengthy and detailed document and with this in mind, and in light of a number of the comments received, it is proposed that no decision on the outcome of the consultation is taken at this time. This would allow Members time to consider the responses and officers time to explore a number of the representations received on proposed alternative approaches and appropriate recommendations developed as a result the consultation feedback. It is proposed the outcome of the consultation be considered at the next Nairnshire Area Committee meeting in September, for recommendations to be made to full Council for a decision in respect of this matter.

- 6.3 For completeness purposes, Members are advised that the decision making process in respect of Sandown Lands will follow the governance in the Council Scheme of Delegation in that, as its value will exceed 10% of the value of Nairn Common Good Fund, the final decision will be that of full Council. Nairnshire Committee Members will have the following options for recommendations for full Council:
- Agree that the proposal for disposal of Sandown Lands for development should go ahead subject to Sheriff Court approval.
 - Suggest the proposal be amended with any significant amendment triggering the requirement for a fresh consultation process.
 - Decide that the proposal should not go ahead.
- 6.4 Members are asked to consider and agree the responses to the representations raised in connection with the proposal to dispose of Sandown lands which are outlined in paragraph 2 (b) of **Appendix 1**, approve publication of these on the Council's website and the notification of the contents of the same to those who have responded within the consultation process.

Designation: Carron McDiarmid, Executive Chief Officer, Communities and Place
Liz Denovan, Executive Chief Officer, Resources and Finance

Date: 09 June 2021

Author: Sara Murdoch, Common Good Fund Officer

Appendix 1: Analysis of Community Consultation on Proposal to Sell Common Good Property Known as Sandown Lands at Sandown Road, Nairn

NAIRN COMMON GOOD

ANALYSIS OF COMMUNITY CONSULTATION ON PROPOSAL TO SELL (FOR DEVELOPMENT) COMMON GOOD PROPERTY KNOWN AS SANDOWN LANDS AT SANDOWN ROAD, NAIRN

1. Number of responses received

The public consultation period ended on 26 February 2021 having been extended initially due to Covid-19 and Christmas and then by an additional 2 weeks at the request of one of the Community Councils. In total it was publicly open for comment for 15 weeks. A total of 98 representations were received. Some made comments and suggestions both for and against aspects of the proposal and therefore, have been included at section 2a and 2b below. There were 4 responses that simply said they objected - they have been included in the total but not referred to in the table below as no other comments were made. All comments received under separate cover have been included separately in the totals even if from the same household. Any representations submitted as joint have been counted only once.

The responses are broken down as follows:

- 3 in support
- 10 making some comments for and against
- 85 objecting

2. Representations, questions and issues distilled from the responses received

a. Supportive comments or suggestions/options received

- Alastair McGregor – Nairn needs funds to support Nairn as follows:
 - Housing for citizens.
 - Funding for community activities in Nairn.
 - Support for charitable organisations working in Nairn.

- Interest from sizeable, well managed fund could help support organisations.
 - Well managed housing stock could ensure funding surpluses for use at discretion of NCGF.
 - Turns non-productive assets into productive income producing assets for benefit of Nairn.
 - Wind farms benefit communities outside town of Nairn but not available to the town, Nairn needs substantial annual funds so CGF can support activities in Nairn.
- Archie McLaren
 - Sales fund of £6-7m could be useful for town but with careful stewardship.
 - Provision of affordable housing could be of benefit.
 - Encouraging to see there will be provision for expansion of the allotments.
- D Shillabeer – comments for and against
 - Development of Sandown makes some sense and there is a chronic need for social housing in Nairn.
 - It would be an almighty boost to the revenue generating capacity of Nairn CGF if invested for future income.
 - It would encourage population growth which would bring economic growth.
- Mrs E Murray – option suggestions
 - Option1 - Housing for elderly, sick and disabled so they can live out final years in peace and quiet away from industrial noise and Sports Centre which is too close to housing. Council has no respect for what later life can bring – nerves, dementia, lack of understanding, hearing issues.
 - Option 2 – Housing for families and proper Sports Centre with sound proofing so people with children can get some sleep. Sports Centres are extremely noisy and this carries.
- Fiona Rowland – options for and against
 - Sandown is a prime site. Resurgence in tourism will be expected after the pandemic so consider an energy efficient hotel and golf course to make the most of the setting, create local employment and provide community benefit. Council would benefit too due to business rates.
 - Develop wet south field – for wildlife, boating pond, coppicing for Green Hive activities.
- Iain Gordon – options for and against
 - There is a case for developing the south side with mixed housing – it could make a good extension of the Tradespark Community which is well served with public transport and local Co-op.

- Jimmy Ferguson – comments for and against
 - Supportive of proposal to develop at least specific parts of Sandown but proposal should be based on a full final development proposal which has been presented and agreed in the framework of a public consultation.
- K F S Mackenzie – suggestions
 - Most important to maximise the price obtained for the benefit of the fund. Conditions laid down in any planning permission must be clear. It would be prudent not to offer all the land at once as a developer might not have the financial resources to develop the whole site and might seek a discount which would disadvantage the fund.
 - The development should be designed to enhance the appearance of the town – not too many houses in too small an area or high rise flats adjacent to the main road as was the suggestion last time.
 - Infrastructure will need to be increased to service the additional housing.
- Laurence Burrell
 - Even though there is currently no potential buyer, the Council should be granted the ability to rapidly accept an offer which meets the Sandown Development Brief and subject to the scrutiny of any definite proposal.
- Roderick Chisholm
 - Tom Heggie is right that we need more homes in Nairn – we have families living in bad conditions. Issue has been going on for years – NIMBY residents on Sandown Road do not want new houses because it will spoil their view.
 - We have to look at the investment - this will bring jobs and opportunities for local people and move us into the 21st century instead of being stuck in the dark ages.
 - Focus on the possibilities and not what the Council and people need for their own ends.
 - I have lived in Nairn for over 20 years and the only changes I have seen are flats at the old bus station, new police station, new community centre and a Sainsbury's.

b. Objections or issues raised for response

The issues raised are summarised in the table below. Where questions/issues/concerns/suggestions have been answered earlier in the table a reference is given as guidance to where those answers may be found.

| No | Name of respondent | Questions/issues/concerns/suggestions | Council's response |
|----|--------------------|---|--|
| 1 | Alan Hampson | Land sale at this time is not best for maximum value | No current proposal to sell but rather completing consultation and court application now will allow for quick action to take advantage of favourable change in market |
| | | Does not accord with proposed plan for development as wetland/tourism centre | Sandown Development Brief includes provision for wetlands & multipurpose complex – consultation is on the basis of that brief |
| | | Other local housing options seem to have been dismissed with no regard to IMFDP | All housing sites in the IMFDP are considered for delivery of affordable and identified in the strategic housing investment plan. |
| 2 | Alastair Noble | There has been inadequate consultation; no financial options or choice of alternatives to sale of the whole. | Consultations must still be conducted despite the pandemic. A longer time period was allowed and was extended again upon request to ensure maximum period for representations. The consultation is an information gathering process therefore if any alternative proposals are submitted, they must be given consideration within the decision making in respect of the proposal. No decision has been taken as to how the land would be sold or indeed if all the land will be sold. In the event that a decision in principle is made the council will seek expert independent advice as what method of sale will generate the best value to the Nairn Common Good. |
| | | It is foolhardy to sell at a time of impending economic meltdown. We are facing challenges as a result of Covid and the Common Good assets are the basis for Nairn's tourism as well as making it a desirable place to live and work. | No current proposal to sell but rather completing consultation and court application now will allow for quick action to take advantage of favourable change in market. The proposal regarding Sandown seeks to provide accommodation for people wishing to move within or to Nairn. |
| | | There will be a loss of community control over community land and no community control over what happens to the proceeds of sale. | The consultation is the process by which the community is involved in this matter. In the event of a sale the proceeds will be a capital receipt and control and governance is provided by financial regulations, Council policies and Council governance procedures. |

| | | | |
|--|--|---|---|
| | | There is uncertainty about title due to an illegal appropriation of Sandown land by Council in 2013. | There is no uncertainty about title, Nairn Common Good remains owned by Highland Council. The decision in 2013 reflected the accounting position required to record the repayment obligation only. |
| | | The inhabitants of the old Royal Burgh have owned this land for over 400 years. There is amazing property in the portfolio that is worth its weight in gold in environmental, green and sustainable terms alone when considering climate change and Scottish Government policies. | Common Good land is owned by Highland Council but administered separately from other local authority property. Vested by s 222 Local Government (Scotland) Act 1973 and then by s15 Local Government etc. (Scotland) Act 1994. Both transfer provisions confirm that in administering common good property the authority must have regard to the interests of the inhabitants of the area. As part of the Council's responsibility to Common Good, it must consider strategic use of assets in addition to maintaining the historical aspect. It is understood this can often be difficult to reconcile. |
| | | There is a fundamental conflict of interest – no Highland Councillor can meet their responsibilities as a trustee of the Common Good and their financial and other responsibilities as Councillors. Who decides on best use of our Common Good assets – all the Councillors cannot and should not take this conflict of interest position on themselves and leave themselves personally exposed to any financial risks as trustees? | Administration of the common good is a responsibility under statute of the Highland Council. Section 56 of the Local Government (Scotland) Act 1973 allows the Highland Council to delegate powers to committee, subcommittee or officers of the authority. The Highland Council has a Scheme of Delegation in place which addresses, inter alia, the common good. All decisions in respect of the common good are taken in compliance with the relevant statutes and Scheme of Delegation. All elected Members are responsible for the management of all Highland CGFs. The power to administer assets is delegated to Area Committees where value is less than 10% of total fund value for area concerned. There is no conflict of interest - elected Members frequently decide on issues related to areas that are not their own local area and must comply with the Councillors Code of Conduct. The Councillors are managers or custodians not trustees – this is a misnomer resulting from a need to draw an analogous comparison to similar responsibilities however, they are covered by different statutory provisions. As Councillors are not trustees, they are not exposed to any personal financial risk in making decisions in respect of the common good. |
| | | We should halt this process now and use our shared knowledge to sort out a base a sensible and sustainable base for all of Scotland's Common Good by jointly approaching Scottish Government to achieve lasting legal clarity about how to maintain our role as custodians of the | This is outwith the scope of this consultation. |

| | | | |
|---|------------------|--|--|
| | | Common Good and pass it on to future generations. | |
| 3 | Alison MacDonald | <p>Timing is wrong. Pandemic has prevented any meaningful consultation with the community. A proportion of residents will have been disadvantaged due to financial constraints or lack of skills in technology or internet. People of Nairn have not been able to meet, consider, discuss or make their views known. The proposal has not been on public display in council offices, libraries or community centre due to being closed due to Covid.</p> <p>It is an attempt to slip the consultation under the radar which is disingenuous.</p> | <p>Fact of closure of council offices and libraries for some of the consultation period is accepted but this was mitigated by the extension to the consultation period. In addition, notices were displayed in library, community centre and leisure centre when they were open, Nairn BID was sent a poster with a request to ask their members to display it and there was a press release and notice advertising the consultation in the Nairnshire Telegraph. Community councils and community bodies were all given direct notification as required by statute and all were asked to bring it to the attention of all people they thought should be aware. Representations have been received in letter as well as email format and the number received would indicate that the community is fully aware of the consultation.</p> <p>The Council has complied with the requirements of the Community Empowerment Act as far as it was possible to do so due to Covid restrictions and taken steps to ensure these restrictions did not prejudice the conduct of the consultation.</p> |
| | | <p>The proposal was drawn up behind closed doors resulting in only one option – sell the whole site. There has been no consultation with the community to look at alternative options – part lease/part buy, self-build plots, retention of land for recreation, tourism options that would bring in a steady income. What about the option for installing solar arrays such as on the Common Good of Tain? A proper place plan for Nairn should be developed in accordance with the upcoming Local Place Plans legislation.</p> | <p>The consultation process is the forum for the community to submit views and suggestions on alternate use of the land (as referred to in reply to representations 2). All representations must be considered within the decision making process.</p> <p>There was also a previous consultation on the use of the site as part of previous Local Development Plan (Highland-wide & Inner Moray Firth Local Development Plan) and the preparation of the now adopted Sandown Development Brief. We are aware of the aspiration of some community groups to engage in preparing a place plan and will continue to discuss options and provide assistance in this regard.</p> |
| | | <p>The apparent need for more housing in Nairn is more a result of a lack of affordable housing in Inverness skewing the figures for Nairn. I have heard that housing officers advise applicants to put Nairn down as a first choice. Greatest</p> | <p>9 out of 10 (86%) of applicants who were housed in Nairnshire were given additional priority which recognises a particular “Need to Reside” in Nairnshire as they work or are already established there or are providing or receiving family care or support.</p> <p>Application numbers indicate that there is a need for all types of housing including housing for particular needs.</p> |

| | | | |
|--|--|--|---|
| | | demand is for 1 bed properties. Need for housing in Nairn figures according to Council (SHIP 04.11.20) is 150 units over 5 years. Volume housing of larger private homes is against Scottish Government planning advice which favours using existing town centre properties creating 20 minute neighbourhoods and encouraging active travel. | |
| | | I think Sandown has been chosen because its value is low so represents cheap land for Council and housing partnerships. The development will be of little benefit to Nairn as all the jobs will be in Inverness. 30% of Highland jobs are in Inverness. Council strategy is to develop Inverness economy which is sucking the life out of other towns. | In its Development Plan the Council identifies a range of sites across all Highland communities to ensure a balanced approach to meeting housing needs and providing employment opportunities in combination. The Council's adopted and emerging Local Development Plan seeks to strengthen Nairn's role as the strategic employment and social centre of Nairnshire. |
| | | It is not function of Nairn Common Good to provide housing to meet Council housing statistics. That is a statutory function of the Council. They have been renovating and using empty or derelict properties in Inverness so why not Nairn instead of Sandown. | The Highland Council has taken a proactive approach to renovating empty properties in Nairn when financially viable to do so. The delivery of new build affordable housing will supplement any housing delivered through bringing empty properties back into use. The purpose of Common Good is for the benefit of the people of Nairn. The need for housing is not to meet statistics; housing is for people. |
| | | It is denied that there is a developer waiting in the wings, but we know from FOI's that Council officers have been in communication with developers and housing alliances. There is a clear conflict of interest between fiduciary duties of elected Members towards Common Good management and their duties to the Council. | There is not currently, nor was there at the time the consultation started, a developer "waiting in the wings". Individual developers have made preliminary enquiries in the past, as they would do with any zoned sites, but the position has been made clear that nothing can be done until a consultation has taken place, a decision made and, if decided to go ahead, Court approval obtained. Whilst Council officers may conduct discussions in general, these cannot be specific unless and until the statutory duties regarding the Common Good have been complied with. The issue of conflict of interest has been answered above (see representations 2). |

| | | | |
|---|---------------|---|--|
| | | <p>Selling Sandown to a single developer will only benefit that developer. Minimal social or affordable housing will be built as has been the case at Lochloy. Scottish Government grants do not cover developer contributions and, as these have to be paid up front, the value of Sandown will be greatly reduced. Current economics do not suggest turning property into cash is sensible in a volatile market with interest rates a historic low.</p> | <p>As noted to other representations above, there is no suggestion in the consultation that Sandown would be sold to a single developer. This would be one option but not the sole option. What is being sought are views on the principle of sale and not the specific mechanics of any eventual disposal.</p> <p>Requirements for the provision of at least 25% affordable housing will need to be met. This will help to address housing needs in Nairn and the wider area. Infrastructure requirements and the provision of any developer contributions will need to be factored into the delivery of the site but are not considered to be prohibitive.</p> |
| | | <p>Once the land is purchased there will be no obligation on developer to adhere to the results of the Sandown Development Brief which followed an intensive Charette process.</p> | <p>Planning process and procedures will be used to impose conditions in respect of any development in the event of the proposal going ahead.</p> |
| | | <p>I object to the use of Nairn Common Good fund to provide funds for fresh investment or to help with post-Covid rejuvenation and recovery. Council has a statutory obligation to provide a fair share of the budget to towns and villages across the region. Nairn does not get a fair share of Leisure & Recreation or Health and Social Care budgets. There is no case for Common Good to be used to plug holes in the Council budget or to be used to lead the recovery of the town. This would quickly deplete the funds and be an example of mismanagement of the Common Good.</p> | <p>This is inaccurate. There is no suggestion of using Common Good funds to fund the Council's statutory responsibilities. The Council has a statutory obligation to provide certain services and allocation of budgets is considered taking into account area needs. It is incorrect to say Nairn does not get a fair share of such budgets; Nairn's allocation will be based on assessment of need with all areas needs being balanced within available budget funds. However, use of Common Good funds for projects or to assist in community funding in the course of recovery and rejuvenation is a competent use of such funds.</p> |
| 4 | Alister Asher | <p>Timing is wrong – land & development values are low</p> | <p>This has been answered above (see representations 1).</p> |

| | | | |
|---|-----------------|---|--|
| | | Conflict of interest because Nairn CGF matters are voted on by Highland Councillors with no interest in Nairn. | This has been answered above (see representations 2). |
| 5 | Allan Wilson | Just a quick way to make some money which is less than the land is worth. | Council is obliged to seek best value but may need to act quickly to take advantage in market fluctuations which is why the consultation is being conducted when there is no buyer for the land. |
| 6 | Andrew Gardiner | Common good land is owned by people of Nairn not Highland Council. | This has been answered above (see representations 2). |
| | | Loss of green space & valuable agricultural land when impact of Brexit & Covid19 remains uncertain. Green space has been crucial during Covid for physical & mental wellbeing. This proposal could erode its availability further Could CGF provide more waymarked health walks to help combat this. | These issues have been examined as part of the preparation of the Council's various Development Plans, and the site has been allocated for a number of years and in a number of plans. There will be a requirement for open space provision and walking routes within the development site that could link up with existing green space. |
| | | Concerns outweigh benefits of more housing if infrastructure is not in place to support it – <ol style="list-style-type: none"> 1. schooling/NHS provision for increased population 2. upgrade to water & sewage system to cope with increased demand 3. increased traffic flow in, out and through the town – queues already build up at peak times and increased road users would make problem worse | The relevant policies and aspects of the Development Plan and the Sandown Development Brief identify some of the infrastructure requirements for the site – these will be further refined at any pre-application and application stages and would include all of the infrastructure types listed in this representation. |
| | | Brexit may cause food supply issues. More interest in home grown supply. Maintaining the agricultural land and allotments enhances this. | Current agricultural use is relatively small scale and only for 8 months of the year. The consultation document states that the current allotments and an additional area of land for expansion are not included in the proposal. |

| | | | |
|---|----------------|--|---|
| | | Charette is substantially out of date – much has changed politically & economically since then. | The Sandown Development Brief that was prepared with feedback gathered at the Charrette held in 2012 remains an adopted Supplementary Guidance document, approved by Council Committee. The Sandown site has been recognised by various Development Plan reviews and was identified as a preferred option for development in the Main Issues Report for the latest plan review earlier this year. The Development Brief and the other aspects of the Development Plan will be taken into account in any planning application. |
| | | There have been community buy outs in other parts of Scotland which would not apply to Sandown as we cannot buy from ourselves. | The community does not own Sandown lands therefore, the availability of submitting a community buy out/CAT remains. |
| | | Since Charette significant housing has been approved at Kingsteps so does the same need for housing exist. | The provision of housing on this site can help to address ongoing housing needs identified in the Council’s adopted and emerging Development Plans. Currently people looking for housing in Nairn are less likely to get their housing needs met when compared to those looking to be housed in other areas of Highland. The pressure on social rented housing is significantly higher than elsewhere. This is due to limited availability compared to the number of households applying. |
| | | Local community need representation in addition to input from local Members on CGF matters. Other Highland areas have Common Good Committees so why has this not happened in Nairn? There should be an independent Common Good committee to improve community involvement. | The legal responsibility for Common Good was conferred on Local Authorities as described in response to the question in representation 2 above. The only area with a separate Common Good Fund Sub-Committee is Inverness – the only people who sit on this Sub Committee are elected Members appointed from the City of Inverness Area Committee. The Sub Committee is used to effectively manage the Fund due to its size and the volume of business that comes before the main City of Inverness Area Committee. |
| 7 | Angus Smithson | <p>Grounds of objection:</p> <ol style="list-style-type: none"> 1. inadequate consultation 2. no financial options 3. no choice of alternatives to sale of whole 4. wrong time to sell 5. loss of community control over community land | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 2 & 3). 2. Objection unclear 3. This has been answered above (see representations 2). 4. No immediate sale is planned but if a good opportunity arose it could be lost due to time involved in consultation and Court application. This is why consultation is being conducted now. 5. See above re ownership – consultation is seeking community views. Council must have regard to these in decision making process. |

| | | | |
|---|---------------|---|---|
| | | <p>6. no community control over use of proceeds of sale</p> <p>7. title uncertainty due to illegal appropriation by Council in 2013</p> | <p>6. Any proceeds of sale will be a capital receipt and will be administered in accordance with the Council's governance and financial procedures.</p> <p>7. This has been answered above (see representations 2).</p> |
| 8 | Annie Stewart | <p>This is not a legitimate consultation process. No case is made for the sale or how the Common Good Fund or Nairn community will benefit. There are many unanswered questions – why, why now, who will buy (single developer/multiple buyers), what would buyer do with land, what will happen to proceeds?</p> | <p>This has been answered above (see representations 2 & 3).</p> |
| | | <p>Consultation is based on Charette from 2012 . A lot of the assumptions and options were relevant to that particular time but not necessarily to today's circumstances. It can be used as background but is no substitute for proper public consultation.</p> | <p>This has been answered above (see representations 6).</p> |
| | | <p>Email/postal consultation will only reach a small proportion of the community and is being held over Christmas/winter period. Consultation must include public meetings and face to face discussion. There has been very little publicity for this consultation. Due to the restrictions people will be focussing on their safety and that of their families rather than what is going on with Nairn Common Good. Also, the Council is consulting in the Main Issues Report of the IMFLDP and this has been promoted by mailed notifications to local address. Why hasn't this been done for Sandown too? This leads me to</p> | <p>This has been answered above (see representations 3).</p> |

| | | | |
|--|--|---|---|
| | | question the transparency of the consultation. | |
| | | There is a conflict of interest for those in the Council who manage Common Good and as members of the Council putting forward the proposal as the Council will benefit from the sale proceeds in the form of income from providing services to maintain Common Good sites. | This has been answered above (see representations 2). |
| | | Sandown Lands are a gateway to Nairn with views across the Moray Firth tempting visitors and could offer similar green space opportunities to the other green space assets of Nairn Common Good. There are many ways Sandown could be used, not necessarily being sold. | This has been answered above (see representations 6). |
| | | Given the edge of town location, there is a need for infrastructure for any development. There are still small sites in town centre and Showfield that could be used. Council has recently said that priority should be given to using town centre sites, so I object to the use of Sandown just because it seems an easy option. | Infrastructure - this has been answered above (see representations 6). The Council's Development Plan looks favourably upon the principle of development in town centres. The Council would support suitable development proposals for such sites and in some cases has assisted their delivery including the redevelopment of the land adjacent to the social work building. The Highland Council has taken a proactive approach to renovating empty properties in Nairn when financially viable to do so. The delivery of new build affordable housing will supplement any housing delivered through bringing empty properties back into use. |
| | | The effect of the proposed bypass must be considered as this will take the main road from Inverness to Nairn away from Sandown. Housing developments would be better sited closer to easy access to the bypass. | The Sandown development site would form an integral part of the Nairn community allowing for movement by a range of modes of transport. There are proposed bypass junctions to the west and east of Nairn which would be easily accessed by all Nairn neighbourhoods. |

| | | |
|--|---|---|
| | <p>Some of the site could be used to provide housing for Nairn's aging population, for instance a retirement village along the lines of Auchlochan or Lesmahagow including large areas of green space, care services for home care and a care home. If good transport links were provided and given the proximity to the beach it could encourage this age group to move freeing up properties for younger families. This would maintain the green aspect of Sandown, benefit the community and not use the whole site.</p> | <p>The affordable housing provision and tenure mix will reflect the housing demand in Nairn and will include housing suitable for the elderly. We note the opportunity to address a range of housing needs on this site.</p> <p>There are 24 properties in Queenspark Gardens Nairn, these are designated sheltered housing properties for the elderly.</p> |
| | <p>There are many recreation/tourism options that do not include housing – allotments are already there and are to be expanded, other orchard sites, wetlands area and visitor centre, small plant nursery etc.</p> | <p>Many of these opportunities were considered and are referenced in the Sandown Development Brief. They have not been ruled out and could be accommodated within a development proposal for the site.</p> |
| | <p>I am concerned by how Council is managing Nairn Common Good and making decisions. Why doesn't Council pay rent to Common Good for the facilities it runs on Common Good land unlike other Highland Areas?</p> <p>Council is looking to reduce costs. One way is to charge Nairn Common Good for services it currently has to provide from its own resources.</p> <p>Questionable past managements requires that Nairn has a full say in future decisions.</p> | <p>This is outwith the scope of this consultation. However, it is general Common Good policy, where possible, for each fund to be responsible for the maintenance of its assets. If Council general fund services are used to undertake such tasks a recharge will be made. Equally, if the Council is using Common Good assets e.g. The Town House in Inverness, then a payment is made to the Common Good. Decisions on Nairn Common Good are taken by the Nairnshire Area Committee except where they relate to the disposal or acquisition of an asset where the value of that asset is more than 10% of the value of the fund. In that case the decision is taken by the full Council. As noted in response 2, responsibility for Common Good has been conferred on the Council.</p> |
| | <p>Now is not the time to sell when value has dropped from £14k in 2006 to around £7k</p> | <p>This has been answered above (see representations 1).</p> |

| | | | |
|---|----------------|---|---|
| | | today. It is not a good time to invest income from a sale for future growth. There is no guarantee a sale will even realise the current value. Sale now would be most attractive to a developer who would build for maximum gain rather than consider other commercial/recreational uses that might suit the site and community better. | |
| | | There is a need to ensure any income and assets from Nairn Common Good benefit Nairn community – be it providing new facilities, new opportunities for local business/enterprise, setting up new events, grants to local groups or renovating/refurbishing existing areas of the town. | This is referred to in the consultation document as being one of the reasons behind the proposal. |
| | | Consultation should be delayed until after the consultation on IMFLDP has been completed as this will address Sandown in any event. | The site has been allocated in the Council’s Development Plan for a number of years and is identified as a preferred location for development in the initial consultation for the review of the Inner Moray Firth Local Development Plan. In line with the allocated status of the site, and on behalf of the Common Good as landowner, this consultation begins the process of exploring the use of the site for development. The outcome of this Common Good consultation process will provide information pertinent for consideration in respect of the consultation on IMFLDP. |
| 9 | Archie McLaren | Not the right time to sell. In a few years’ time there could be a proper and open public consultation. There is no need to rush into a decision. | Consultation is about the principle of sale and to enable full advantage to be taken of changing circumstances in the market conditions. |
| | | Risk that sales funds could be used on recurrent costs to prop up other budget shortfalls and be gradually eroded. | Sandown is a capital asset. Sale of a capital asset should be used to increase the capital held by the Common Good fund. It may be appropriate to use such funds to finance the purchase of other capital assets or fund capital projects, but such funds should not be used to fund revenue expenditure. Common Good funds are not used to make up any |

| | | | |
|----|---|--|--|
| | | | shortfalls in any other Highland Council budgets. Common Good accounts are subject to scrutiny and auditing as are all other Council funds. |
| | | If land is to be sold it should be sold bit by bit not all at the same time – such as plots to individuals or small developers. This would preserve the intrinsic value of the land to the benefit of future generations. | The current consultation is about the principle of sale. The mechanism for this has not been determined i.e. whether as one site or whether as smaller sites (see representations 2). |
| | | Single sale would result in a large developer building more houses than Nairn could cope with in terms of infrastructure – schools, health provision, roads. Houses would probably be built to minimum environmental standards. | This has been answered above (see representations 3 & 6). |
| | | Developer contributions should be safe guarded with proper provision of open green space and play/sports areas with long term maintenance provision. | The site layout and design, infrastructure requirements, and any appropriate mitigation, developer contributions and maintenance, will be considered in more detail through any future planning application. |
| | | Wetland area to south of A96 should be excluded and developed as either community asset or in line with brief in background to proposal section of consultation document. | The wetland area is identified in the Sandown Development Brief as an area for safeguarding as open space within any future development. Any drainage issues would need to be incorporated in the design and layout of the scheme, which may include open space or SUDS as a means of managing any drainage issues identified. |
| 10 | Brian Lynch and Sheila Lynch – all submissions in identical terms | Sandown has been used by the inhabitants for recreational purposes and farming for time immemorial and its use should not be changed | The Highland Council is responsible for administering all Common Good funds across its region. Part of this responsibility includes considering what the best use of assets within a fund maybe. Currently Sandown is open land returning a nominal rent only and the consultation seeks opinion as to whether this is the best use for this asset moving forward. |
| | | If proposal is agreed the Sandown green belt will be lost and Nairn will lose one of the attributes that makes it an attractive | There is no green belt per se in Highland. The Sandown site is allocated for development in the Development Plan and landscaping issues were considered through the preparation of the Development Brief and will be further examined as part of any future planning application. |

| | | | |
|--|--|---|--|
| | | destination – its open vista approaching from Inverness. | |
| | | Land prices are deflated so I am dubious that any sale will produce significant funds. Any funds obtained are more likely to disappear into the general budget process. | This has been answered above (see representations 1, 3 & 9). |
| | | Currently everyday traffic flow is grim, a large development at Sandown will compound this. | This has been answered above (see representations 6). |
| | | Lochloy is still being developed and includes affordable housing – why should green belt be destroyed when there remains scope for additional housing at this brown field site? | This has been answered above (see representations 3 & 6). |
| | | HC waiting list in last IMFP places Nairn 8 th out of 10 with 3 rd lowest requirement in whole of Highland region. The title “Nairn” used to define “Housing Market Area” in the plan is defined on Council’s HMA map as the whole of Nairnshire not just town of Nairn. How can Council justify statement that “greatest pressure on social housing is in Nairn” | This has been answered above (representation 6) |
| | | The wetlands are all shown as being on south of A96 but field on north have just as much wetland area – large areas are left unploughed by farmer as a result. Both areas are frequented by same wildlife. What criteria is used to define one wet area of field as preferential to the other? If no criteria then why has south been proposed over north? | The areas identified as being suitable for development were identified through the preparation of the Development Brief for the area which was subsequently adopted by the Highland Council as statutory Supplementary Guidance. |

| | | | |
|----|-------------------------|---|---|
| | | No reference to endorsement by community councils, have they been consulted and are they in support? | The community councils are statutory consultees within the consultation process. Details of the comments can be seen within this document. |
| | | Charette is out of date and the group of people consulted will have changed considerably. | The site has been allocated in the Council's Development Plan for a number of years and is identified as a preferred location for development in the initial consultation for the review of the Inner Moray Firth Local Development Plan. In line with the allocated status of the site, and on behalf of the Common Good as landowner, this consultation begins the process of exploring the use of the site for development. The outcome of this Common Good consultation process will provide information pertinent for consideration in respect of the consultation on IMFLDP. |
| 11 | Catriona Youngson | Nairn has had a fair share of Springfield houses built and the infrastructure does not support them. In the summer it can take an hour to get from one side of Nairn to the other. | This has been answered above (see representations 6). |
| | | Will the money from any sale be ploughed back into Nairn community – improve the High Street, harbour etc. I doubt it. | This has been answered above (see representations 3). |
| 12 | Chris & Melanie Meecham | The lands are used for recreation by a large number of people and the people of Nairn should be able to continue a use they have enjoyed for over 400 years. | This is what gives the lands their inalienable character. In the event the Council decides to proceed with the proposal, this is the issue that would be brought before the Sheriff Court for decision. |
| | | Better use could be made of the land other than housing – what about rewilding, build on fact it is the main walking route to Delnies Woods from Tradespark. Are grants available to improve paths, drainage, planting? Is it possible to secure an income from the land any other way? | This is something that would be addressed more fully within any planning process, but active travel routes will be created through site. Housing use generates the highest value on the land. |
| 13 | Corinne Ferguson | Mixed use of Common Good land is an admirable idea – would the Council support excluding part of the land for | The consultation document states that the current allotments and an additional area of land for expansion are not included in the proposal. Other community uses for food growing or equivalent could be considered. |

| | | | |
|----|--------------------|---|--|
| | | Community Supported Agriculture? This would address concerns about sustainability and resilience of the food system and allow for community based control and ownership of part of the food system. | |
| 14 | D Shillabeer | Sandown is Nairn's most valuable asset so why sell it off for a fraction of its worth? | There is no offer currently for the land however, the worry is that the market could fluctuate, and the Council is seeking to be in the position to respond quickly should the market improve. |
| | | There is no detail on the table, the right time to consult is when there is something specific to consider. | If the Council waits to consult until either the market improves or an offer comes forward, the opportunity could be lost due to the length of time required to process the consultation and necessary Court application. |
| | | The consultation should be stopped and be recommenced when the pandemic is over and normal face-to-face discussions can occur. It has only been on the website which disenfranchises those who do not have computers or web access. | This has been answered above (see representations 3). |
| 15 | David & Helen Clem | There may be a need for council housing but there is no need for more private housing. There is a surfeit of new housing in the area. | The provision of housing on this site can help to address ongoing housing needs as identified in the Council's adopted and emerging Development Plans and in line with the Housing Need and Demand Assessment. At a recent economic strategy meeting Business leaders identified lack of housing as major constraint on the economic recovery in the Highlands. The housing market is currently overheating due to the lack of new supply. There is no surfeit of new housing in the area and delivery of new housing at Sandown would ensure a long term supply to assist the economic sustainability of the area. |
| | | Increased housing puts more pressure on schools, health service and traffic management. | This has been answered above (see representations 6). |
| | | Sale of Common Good assets is the right of local residents of Nairn and the County not Highland Regional Council. | Common Good assets are owned by Highland Council as a result of local government reorganisations following the abolition of the Burghs. Assets can only be disposed of in accordance with the process now laid down in statute requiring consultation and, in some cases, Court approval. |

| | | | |
|----|-------------|--|---|
| 16 | David Bain | If there is no developer why is this proposal being made now in the middle of a pandemic when restrictions prevent meaningful debate with the people of Nairn? | This has been answered above (see representations 1, 2 & 3). |
| | | Why does the council need to be in a position to “move quickly” when best value for Sandown Lands may not be achieved for a large number of years? | This has been answered above (see representations 1 & 9). |
| | | Council states it wants funds to help in recovery and rejuvenation of Nairn post Covid, but such funds should come from Highland Council or government grants. Common Good assets should not be used to replace statutory funds. | This has been answered above (see representations 3) . |
| | | There are outstanding disputes regarding previous Council decisions concerning Sandown Land which need to be settled first. | This is inaccurate. There are no disputes regarding previous Council decisions. The position has been confirmed fully to the Community Council that raised the issue. |
| | | The Common Good is controlled by the Council and Highland Councillors which causes a conflict of interest as it is the Council that would benefit from the sale of Sandown Land for housing. | This has been answered above – there is no conflict of interest (see representations 2). |
| | | How can the Council claim any or the houses would be social or affordable unless it intends to buy and build itself or there is already a developer in the pipeline? | The requirement for a proportion of social and affordable housing is a routine condition in large housing developments. The same would apply here. As answered above there is no developer currently involved. |
| 17 | David Brown | Proposal is ill-conceived. Who initiated the original misguided development of Sandown Lands? I suspect it was not people of Nairn or local Members but paid | The original Sandown development brief was prepared in 2013 following community consultation including a Charrette which also followed the site being allocated in the Council’s adopted Development Plan. The current proposal to sell is subject to the community empowerment consultation within which these responses have been made. |

| | | | |
|----|--------------|--|---|
| | | Highland Council officers without any consultation with the Nairn community. | |
| | | Nairn does not need more housing – unwanted 115 being built to east, spurious 350 proposed for south and more from Cawdor to the west. Nairn can barely support the existing housing – roads are stretched to limit, and sewage system is at full capacity. | Infrastructure - this has been answered above (see representations 6). |
| | | It is time to let the people of Nairn decide how their Common Good assets are used to better enhance the whole community – could the Council initiate a consultation on what could best improve Nairn and secure the its future other than as a dormitory for Inverness. | This has been answered above (see representations 3) |
| 18 | David Fraser | Land is used for agriculture in summer and recreation by people of Nairn in winter. It has been used this way for many years and its use should be preserved. There is a great range of wildlife on site. If it is sold it would be lost forever and the proceeds would be frittered away. | Nairn benefits from considerable other green open space for instance the Links. See answers above on use of land and use of any sale proceeds. |
| | | Housing is not needed due to other developments in progress/planned. | This has been answered above (see representations 6 & 10). |
| | | This is not a good time to be considering such a decision – people will be influenced by pandemic and may make decisions that they would not have made under normal circumstances. | Any decision made will follow careful and detailed consideration of all the facts including all representations received and taking into account the uncertainty around the current circumstances. All decisions must be in accordance with the Council’s governance processes. |
| | | There has been significant development over the past 50 years and the infrastructure has not kept up. | This has been answered above (see representations 6). |

| | | | |
|----|-------------|---|---|
| | | The site is a wetland – northern most end is saturated during the winter and the southern end has been earmarked as wetland too. | This has been answered above (see representations 10). |
| | | No one I have spoken to in Nairn wants to lose this asset. | Noted. The consultation is the place for people to make their views known. |
| | | Sandown site is too far out of town for folk without access to private transport. A development such as this should be sited close to several amenities similar to the distributor road development in Inverness. This should wait until the bypass is completed as this will highlight other suitable land where owners actually want to sell as they will no longer be able to use it as they did before. | The Sandown development site would form an integral part of the Nairn community allowing for movement by a range of modes of transport. Nairn will have good access to the proposed bypass junctions to the west and east of the town. |
| 19 | David Grant | Council is not allowing proper public debate due to the current Covid restrictions. | This has been answered above (see representations 2 & 3). |
| | | Council has been unable to made proposal available to view in local council offices and libraries due to Covid and I have not seen any notices publicly displayed. The Council has not complied with the requirements of the Community Empowerment Act. Not everyone has access to Council website. | This has been answered above (see representations 2 & 3). |
| | | We will never know if the proposal is the best use for this land because proper debate has not been possible. | The consultation process is the forum for submitting views and suggestions on alternate use of the land. Even if debate had been possible, those views and suggestions would still have needed to be submitted in writing within the consultation to form part of the decision making process under section 104 Community Empowerment (Scotland) Act2015. |

| | | | |
|----|---------------|--|--|
| | | It would be in the interests of the community and improve the Council's credibility to set this proposal aside to allow proper and open debate, unless there is an underlying motive to decide immediately. | This has been answered above (see representations 3). |
| 20 | David Thomson | It is disappointing that this matter has been the subject of closed discussions between local Ward Members and Council officers for at least 2 years without seeking the views of the community or keeping the Community Councils updated. | The only discussions between officers and Ward Members have been whether there should be a consultation on the principle of selling Sandown. The consultation process is the appropriate time to seek the views of the community. |
| | | Bland consultation document makes clear money is the driving force. No other options have been considered. There are no thoughts of planning for future, green agenda, climate change, reasons why people chose to live in Nairn or about tourism which is Nairn's main economy. | The Council has a duty to ensure best value from Common Good assets. The Inner Moray Firth Local Development Plan - which is under review and identifies Sandown as a preferred option for development – looks at how the Council's ambitious Indicative Regional Spatial Strategy, and the related Scottish Government National Planning Framework 4, can be delivered in each part of the Inner Moray Firth area. The consultation is on the principle of sale and the IMFLDP and the Sandown development brief set out the policy context and potential uses of the land. |
| | | No thought has been given to how the land could contribute to Community Wealth building which is a primary objective of Scottish Government as are the Town Centre First Principles. The only option on the table is to sell. Why do Council Officers lack the foresight, imagination and ability to see past one option? There will be no benefit to Nairn just the loss of our land. | This has been answered above (see representations 2 regarding seeking independent advice). |
| | | There needs to be full disclosure on actual housing needs with facts and figures. | This has been answered above (see representations 3 & 10). |
| | | Nairn has a town centre full of empty properties. Using these would bring | This has been answered above (see representations 8). |

| | | | |
|--|--|--|---|
| | | people back into the centre, provide solid well built homes and prevent concreting over green space, reduces car emissions, creates footfall and employment and returns vibrancy to the heart of the town. | The Council has taken a proactive approach to renovating empty properties in Nairn when financially viable to do so. The delivery of new build affordable housing will supplement any housing delivered through bringing empty properties back into use. |
| | | Sandown has been part of Royal Burgh for more than 400 years. This is second time in just over 10 years that Council have tried to sell. First failed when Deveron Homes could not get planning permission. Even if they had there would have been a problem because Council failed to register the land in accordance with Local Government Act 1973 which requires permission of Court to sell inalienable land. Of note that this is now recognised as a requirement. Council acted illegally in 2008-10 and the current land titles for Sandown are incorrectly registered with Registrar of Scotland. | This is inaccurate and has been communicated in detail to Nairn West and Suburban Community Council. The process in relation to Deveron Homes concluded when they failed to get planning permission. It is not the subject of the current consultation which is an entirely separate process. As was clarified at the time the Asset Register was published in February 2020, an interpretation of the wording of the Charter had been adopted in 2002 that disposals of such land were permitted. When everything was reviewed after the coming into force of the Community Empowerment Act in respect of Common Good, it was confirmed that this view is no longer accepted and, moving forward, Court applications would be made in respect of property where a question of inalienability arises. This change of view does not make the previous view illegal as it was formed based on information believed to be applicable at the time. However, what is important is to ensure that moving forward the correct approach is taken. Regarding the registration of Sandown with Registers of Scotland – this registration is correct. The land is owned by Highland Council, and this is how it is recorded in Registers of Scotland. The Register does not provide for subsets of property type such as Common Good. Statute provides that Councils must manage and account for Common Good property separately from other Council property, but it is Council property nonetheless. |
| | | Highland Council sequestered a portion of the land in respect of the money expended on Common Good behalf. | This is not accurate. The Council does not have the standing to sequester property belonging to itself. What happened was an accounting process to reflect the position in accordance with the opinion of external auditors. |
| | | Sandown is preferred option in latest IMFLDP but how can this be when Court permission has not been obtained to allow it to be included? Is this another error by the Council? | Sandown may have been included as a preferred option, but the position has been clarified that the actual availability of the land will only occur in the event of the proposal to dispose being approved and Court permission being obtained. |

| | | | |
|----|-------------|---|---|
| | | Will Highland Council pay any heed to the detailed and evidenced objections or will they view the formal consultation process as a “tick box” exercise as usual? | Section 104 requires the Council to have regard to any representations made in reaching a decision. In the case of Sandown, the matter will be considered first by Area Committee but, due to its value against total value of Nairn Common Good Fund, the final decision on the consultation will be made by full Council. If the proposal is approved, Court permission would be sought at which the community (either by way of group representation or individuals) can file answers and be heard by the Sheriff. |
| | | No detailed case for sale has been offered or any cost benefit analysis provided. No other options have been considered only how the sale can meet the Council’s housing targets while any money received from sale will be used to subsidise the Council’s shortfall in finances. | This has been answered above (see representations 2 & 3). |
| | | The land should not be sold until all options have been considered at public meetings. Once community has decided on the best options to move Nairn forward in conjunction with Local Place planning and fair share budgeting, these can be put before the community for formal consultation. | Issue of public meetings has been addressed above. In respect of what forms the proposal for consultation, it must be remembered that section 104 requires the Council to consult when the Council is proposing to dispose or change the use. This may not be the same as what the community wants and there is no requirement on the Council to consult on community proposals unless they are the same as Council proposals. |
| 21 | Des Scholes | Consultation should be stopped as it comes after officials have been talking to developers as minuted in Ward Business Minutes. | There have been no discussions with any developers resulting in the current consultation process. |
| | | Why are you so keen to sell now when prices are so low? | This has been answered above (see representations 1, 2, 3 & 9). |
| | | There has to be discussion for future of Sandown Land not just what Highland Council wish. Personally, for future of Sandown, there should be some housing but in stages and prioritise social housing or rent out parcels | This has been answered above (see representations 3 & 9). |

| | | | |
|----|---------------|---|--|
| | | of land on a long lease. It should not be all to a single developer. | |
| 22 | Dr Iain Bruce | Continuing failure of Highland Council's promises over a considerable period of time to engage the local community in matters of mutual interest and Common Good in particular – example community's efforts to get an audit of Common Good assets. | There was a full consultation on the development of an asset register for Nairn Common Good following the Common Good sections of the Community Empowerment (Scotland) Act 2015 coming into force in 2015. A number of representations were received responded to and the register was published in February 2020. It can be accessed at this link https://www.highland.gov.uk/downloads/file/20494/nairn - _common good asset register The document containing comments made and responses has also been published and is available on the Council website from this link www.highland.gov.uk/downloads/file/21790/nairn_common_good_property_consultation_representations_and_responses |
| | | Clearly a conflict of interest in Councillors' obligation to safeguard Common Good assets and to maximise their value to local community. In their participation in Highland Council policy making they clearly fail to accept the essential separation of roles as Trustees of Nairn Common Good and function of Council in statutory duty to provide housing. | This has been answered above (see representations 2). For clarity Councillors are not Trustees of Common Good funds – this is a misnomer resulting from being used as an analogous reference. Financial responsibilities in respect of Common Good are covered by different legislation and regulations to trust property. |
| | | Community confidence in officials and Councillors is at an all-time low as illustrated by proposed use of accumulated developer contributions in the capital proposals to fund a dance studio and coffee bar at the leisure centre in direct competition to 2 private food outlets in the vicinity. | This is an inaccurate statement. The use of developer contributions to improve facilities at the leisure centre does not form part of this consultation however, they are not being used to fund café or food provision. Rather they are being used to improve publicly accessible sports facilities for wider community use and benefit. In all respects contributions are being used appropriately and in accordance with the relevant policies and national legislation. |
| | | The consultation is premature, a conflict of interest, an inappropriate substitution of Council statutory spending and an example of tokenism in democratic | This has been answered above (see representations 1, 2, 3 & 9). |

| | | | |
|----|------------------|---|---|
| | | accountability – it should be stopped until accountability is demonstrably in place. | |
| 23 | Elizabeth Bligh | Wrong time to sell with virus – wait until proper discussion, consultation and thought out plans can be made with public meetings, all of which are currently not possible because of the virus. | This has been answered above (see representations 1, 2, 3 & 9). |
| 24 | Elizabeth Oldham | Not a good time to sell – the land used to be valued at £22m and is now only £6-£7m. Proposal is poor value and breaks council responsibility of best value. | This has been answered above (see representations 1, 2, 3 & 9). |
| | | Does value include costs of sale or enforcement of conditions when developers push their luck? Nairn Common Good is probably only looking at gaining £5m. | The value provided is indicative at this stage and does not include the costs of disposal (legal and marketing fees). The figure provided is an expected price, net of anticipated and known developer contributions |
| | | Given past experience of developers going bust to avoid developer contributions, wouldn't it be better to sell land at a higher cost without contributions and ring fence the extra money for Nairn improvements directly and under the control of Nairn Common Good, Community Councils and Nairn BID? | Developer contributions delivered through section 75 agreements are legally binding on future landowners should a developer go bust and their assets be sold by receivers. |
| | | Developers are not interested in affordable homes because they do not make them as much money – example Meadowlee has a token number of affordable homes. Many more of such homes are needed in Nairn. Why not have Nairn Common Good build itself or commission a developer to build for them. | The delivery of affordable housing would be protected by section 75 agreements and the Council or a housing association would deliver them. The Council is obliged to seek best value for the disposal of Common Good assets. |

| | | | |
|----|-------------|--|---|
| | | In the past the Council would have built homes for rent. | |
| | | Words “volatility of the market and property values” sounds like Council saying we have decided to sell as soon as possible but we need to put something in to appease the people of Nairn that we will do our best. This is not good enough. Has phased development been looked at? Or partnerships or commissioned building that may be more innovative? | This has been answered above (see representations 3 & 9). |
| 25 | Elsa Fraser | There is no reason to sell off this land for development. Nairn has reached saturation point and the infrastructure cannot cope. Why would anyone want to expand further until this has been properly and honestly addressed by people it affects directly not by someone in a different town or who never looks beyond their own doorstep? | This has been answered above (see representations 6). |
| | | Once bypass has been put in place, there will be several farmers with land no longer fit for purpose. If housing is still needed it would benefit the farmers to sell that land and keep the Common Good asset for the future of the town. | This has been answered above (see representations 8). |
| | | The common good ground as it currently exists sustains habitats for wildlife, a safe, well used area for dog walkers and is used by local farmers for crops upon payment of rent bringing in some revenue. | This has been answered above (see representations 6, 10 & 12). |
| | | The argument for housing folks with additional support needs in Nairn is old | Queenspark Gardens and McLean Court are the only properties that have been designated sheltered housing. This has been long standing and has not changed. |

| | | | |
|----|-------------|---|---|
| | | <p>news. Many of the properties previously used for elderly sheltered accommodation in Tradespark/Moss side, Claymore Gardens, Maclean Court, Corsee gardens, Queenspark Gardens & Whinnieknowe Gardens are now used as single occupancy flats or to support people waiting for their own tenancy. Most recently latest Springfield phase handed over purpose built adapted housing. Nairn cannot be expected to house all the folks on the Highlands waiting list – there are plenty of towns that have not been oversubscribed like Nairn and any required housing should be built there.</p> | <p>The last Springfield housing development at Lochloy delivered 29 properties for social rent, 19 of these properties were adapted and all allocated to applicants with a local connection to Nairn.</p> |
| | | <p>Once this asset is sold, it is gone forever. Who is the profit for? It is unjust and underhand that the fate of the land is being discussed and proposed for sale when people cannot gather and share thoughts and grievances. It does not need to be sold. Build a new school and bypass before any more people are squashed into this lovely town.</p> | <p>This has been answered above see representations 2, 3, 6 & 8).</p> |
| 26 | Ewan Gordon | <p>Concerned by proximity to Nairn Golf Club. Nairn Golf Club is a precious and integral part of our local economy – has any consideration been given to the impact of the sale on this? It is ranked 56th in UK and, as a result, brings in considerable tourism and financial gain. A falling in the rankings and failure to attract tournaments will impact negatively on the town and economy.</p> | <p>There are a number of existing residential properties in close proximity to the Golf Club including some which lie between the development site and the golf club. It is not considered that any current or future housing will have a direct impact on the golf course.</p> |

| | | | |
|----|----------------|--|---|
| | | Close proximity of “social housing” of “flats” would have a massive negative effect on visual surroundings as well as added noise pollution and increased vandalism associated with this type of housing. | |
| | | The volume of housing would increase footfall on the “right of way” crossing the golf course. It is already a massive safety hazard, but this would become even greater if further housing is built. | The use of any formal or informal paths would be considered as part of the planning application and any rights of way may form an important connection for different types of journeys. To date there is no information to indicate that development of this allocated site would unduly conflict with surrounding land uses or movement routes. |
| | | If sale goes ahead a Green Zone of wetland or green space should be added as an increased buffer between the golf course and the development. | This would be a condition appropriate for consideration under any planning applications and consultations. |
| 27 | Ewan Macdonald | <p>No need to sell Sandown for housing:</p> <ul style="list-style-type: none"> • Already development at Tornagrain and planning permission granted for Cawdor Estate to build at Delnies. • The land is currently leased so brings in income • It provides wildlife habitat • Infrastructure is not sufficient to support more housing – new school only just announced and still waiting for bypass • Not happy if Cllr MacDonald is involved as she was elected as SNP not Independent and has built houses on her land at Lochloy but only tiny amount of affordable and | <p>Most of these have been answered above (see representations 6, 10 & 12).</p> <p>In addition, the political persuasion of any Councillor is not relevant to this consultation. The conditions for any housing development are dealt with under the planning process and within Council planning policy as set out in the Council’s developer contribution guidance document.</p> |

| | | | |
|----|----------------|--|--|
| | | none for rent so did nothing to reduce Council housing list. | |
| 28 | Fiona Nicholas | <p>Sale of this land to one developer would not necessarily be of benefit to people of Nairn:</p> <ul style="list-style-type: none"> • Do we really need another huge housing development within the town? • There is a need for more social housing, but not sure Sandown should be first choice. • Other sites nearer town were earmarked. • If sold to private developer it's unlikely social housing requirement will be addressed. • Likely to be lots of 3, 4 & 5 bed villas. • All schools are at capacity already • Will there be a guarantee from developers to contribute? • Will the allotments be safeguarded if the development goes ahead? • It has been Common Good land for over 400 years and the current value is very low compared to 2012 so not appropriate to sell. • No specific proposals for how any money received would be spent. | <p>Most of these points have been answered above (see representations 1, 6 & 10).</p> <p>Other comments:</p> <ul style="list-style-type: none"> • The area currently occupied by the allotments and an additional area for extension of the allotments is excluded from the proposal that is subject of the consultation. • Any proceeds of sale would be treated as a capital receipt and any proposals for potential spend would be discussed and developed in accordance with the Council policies and governance procedures. |
| 29 | Fiona Rowland | If there is a need for social housing, site it on land opposite Firhall where there would be better pedestrian access to | The strategy for housing delivery is to provide a mix of tenure and types of housing in a range of locations. It would not be desirable to place affordable housing in one specific location. |

| | | | |
|----|----------------|---|---|
| | | railway station, hospital, river and town centre. Also, I hope the buildings are more attractive than those built at the harbour – the lack of maintenance is detrimental to the image of Nairn. | |
| 30 | Fiona Sinclair | Concerned about the impact on wildlife. It could not simply be expected to be squeezed into the area being suggested for potential green “wetland” so would be displaced. | This has been answered above (see representations 6, 10 & 12). |
| | | The perimeter is used by local people for health and wellbeing purposes – exercise and running. | This has been answered above (see representations 6, 10 & 12). |
| | | The fields gather water when it rains. Development might cause this to be displaced elsewhere like neighbouring properties. Developers might say systems would be in place to prevent this, but this does not always happen. | The Sandown Development Brief has acknowledged and considered drainage and flood risk issues for any future development. Any drainage issues would need to be incorporated in the design and layout of the scheme, which may include open space or SUDS as a means of managing any drainage issues identified and will be further scrutinised at the pre-application and/or application stages. |
| | | The Trustees of the Common Good are members of the Highland Council resulting in a conflict of interest bringing into question how the decision making process could be transparent. | This has been answered above (see representations 2). |
| | | Has an options appraisal taken place before the current consultation process began? Have other options in relation to future uses for Nairn’s Common Good lands been identified and discussed where the key consideration is the long term and ongoing benefit to the town and local community? | Comment on options appraisal has been answered above at representations 2. Regarding future uses for Nairn’s Common Good assets, this is a matter for strategic considerations taking into account all relevant and developing factors. |

| | | | |
|----|--------------------------|--|---|
| 31 | Flora Wallace | Concerns regarding rain runoff. When there is heavy rain or snow melt, the Alton Burn often floods into the gardens alongside. This problem would get worse with the proposed building and replacing agricultural land with tarmac. | These type of issues would be addressed within any planning application process. |
| | | I have access from Sandown Farm Lane (via the allotments) to my ground on the west side of the burn to allow me to keep my trees tidy. | Any rights of access would be addressed within any planning process. There is no proposal to interfere with the location of the current allotments. |
| 32 | Gary Smith | Selling off now is of no benefit to common good of citizens of Nairn when land prices are greatly reduced, and another big housing scheme does nothing to improve our town. It is about time the Nairn Common Good land is brought under the control of the people of Nairn rather than the distant oversight of Highland Council. | This has been answered above (see representations 1, 2, 3 & 9). |
| 33 | George & Sharon Asher | These assets should benefit the people of Nairn for generations to come. Before any sale, the people of Nairn need to know how the money will be invested to give them a return in the future which will increase in value. Having open public space is very hard to put a price on so any plans to sell should be very clear in their objectives and outcomes and should not be rushed through in a pandemic. | This has been answered above (see representations 1, 2, 3 & 9). |
| 34 | Graham & Brigitte Stuart | The proposed sale is not in the best interest of Nairn Common Good for the following reasons: <ul style="list-style-type: none"> • The timing will not obtain the best return for the community | This has been answered above (see representations 1, 2, 3 & 9). |

| | | | |
|----|-------------|--|--|
| | | <ul style="list-style-type: none"> The resurgent interest of trustors in the Common Good presents a great opportunity to conduct a high level and long term assessment of the use of the assets and the Common Good representation. | |
| 35 | Graham Vine | No reason why a buyer needs to be found now. It makes more sense to wait until Covid situation is controlled. This has been going on 15 years and 1 more year to get a better outcome would be sensible. | This has been answered above (see representations 3). |
| | | Access must be resolved before sale with or without planning permission can be progressed. The last proposal was to block off junction with A96 from southern end of Sandown farm lane with hundreds of cars from Sandown residents forced north down the single track lane north then along the very narrow Altonburn Road and south up Manse Road. | The access arrangements and traffic impacts were considered as part of the Development Brief preparation and are considered to be manageable for the surrounding network with appropriate mitigation as necessary. Any future planning application would need to consider this in more detail. |
| | | Highland Council refused planning permission for Newton Hotel to build 50 flats in their grounds on the basis that this would pose unacceptably high traffic on Manse Road. However, the proposal for Sandown would generate vastly more traffic. | The access arrangements and traffic impacts were considered as part of the Development Brief preparation and are considered to be manageable for the surrounding network with appropriate mitigation as necessary. Any future planning application would need to consider this in more detail. |
| | | The allotments are a local amenity and should not be sold to a commercial owner but retained by the Common Good fund or sold to the allotment society as a non-profit Community Enterprise. | This has been answered above (see representations 28). |

| | | | |
|----|--------------|---|--|
| | | If and when the Nairn by-pass is open and direct access can be allowed from Sandown North field to the then de-trunked road currently A96, it would be probable a much higher value could be obtained for the site with unlimited access. There is no priority to sell the land before unrestricted access can be obtained. | The status of the road is not considered to be a significant or insurmountable issue for the delivery of the site and the access arrangements outlined in the Development Brief. |
| 36 | Gregor Munro | The land is listed as inalienable and, as such, no development can be considered. Even if this can be overturned the land is for the common good and a sale for social and private housing cannot be said to be in the common good. | This has been answered above (see representations 1, 2, 3 & 9). |
| | | The Charette was carried out in 2012 before it was accepted the land was inalienable. It is 9 years out of date. | This has been answered above (see representations 6). |
| | | Any development should be restricted to the wellbeing of the common good of Nairn. The land is a significant resource for Nairn. A park or woodland cannot be justified in monetary terms but would still represent significant value to the community. | Sandown Lands are a significant asset of Nairn Common Good but what must be decided is whether retaining them or selling them is appropriate in considering how best to invest in Nairn Common Good for the future hence the consultation process. |
| | | It is accepted there is a need for social housing but there seems to be plenty of private housing already in Nairn. It seems the Council are being drawn to a private developer to achieve 25% social/affordable housing when there are other landowners willing and able to | This has been answered above (see representations 15). All housing options will be considered , currently there are very few financially viable affordable opportunities in Nairn. |

| | | | |
|----|------------|--|--|
| | | provide land for this purpose without using common good land. | |
| | | The traffic situation passing through Nairn is already intolerable. No development of Sandown should be considered until this has been resolved. | This has been answered above (see representations 6). |
| | | Covid-19 has no bearing on this development and is a red herring. | Covid-19 was already prevalent at the time this consultation commenced. The impact of covid-19 on communities and economies across the world will be felt for some time to come and will impact and influence decision making both locally and nationally. This is therefore an appropriate consideration in this proposal. |
| | | This is part of Nairn Common Good, but I am not confident that the anticipated sale value would accrue to the benefit of the people of Nairn. | This has been answered above See representations 2 & 3). |
| 37 | H P Corran | To sell these lands is a betrayal of the trust we place in our elected officials. | Any sale will only happen after all due processes as prescribed by statute have been completed and in accordance with Council governance policies and procedures. |
| | | Common Good lands should be for the benefit of those to whom they were gifted , not for Council to dispose of as they wish. I believe when the land was gifted to Nairn, it was with the wish that it would be used to enhance the lives of all Nairn residents. I believe the lands were gifted under the assumption they would not be used for housing developments. | It is important to note that the Charter dates from 1589 and therefore the concept of housing development would not have been known at that time. Documents must be interpreted and considered within the current context. The wording in the Charter is <i>“And we also of new, give, concede and heritably dispone to the present provost, bailies, councillors, community and inhabitants of our said burgh of Narne, and to their successors for the time being, all and whole the foresaid burgh of Narne, the land, houses, and tenements of the same, within the whole bounds, meiths and marches of the same, used and wont, with all annual rents, farms, burgages, and dues whatsoever, in any manner pertaining to the said burgh with all and singular the liberties, privileges, advantages, rights, easements, and powers whatsoever belonging or that may in any way belong to the said burgh, as freely in all respects as any other royal burgh has or by the laws and customs of the realm can claim”</i> . Historically land coming from the Royal Charters was disposed of to produce revenue to develop the Burgh and benefit the inhabitants. |

| | | | |
|--|--|--|---|
| | | | There is no prohibition on potential uses for the land subject to the statutory duties being fulfilled. The use of Common Good lands to provide accommodation across former Burghs as they developed is not unusual historically. |
| | | There is a statement in the proposal – “strategic planning to protect and maintain the fund for future generations”. Selling this land contradicts that morally and maybe legally. Once they are sold we will never be able to own such an asset again. | This statement relates to the fact that as economies develop and move forward, keeping everything as it always was may not be the best from a strategic, investment, growth, future proofing perspective. That is part of what this consultation together with all the representations will need to consider. |
| | | The Charette is nearly a decade old. It was a poor piece of work and has not improved. Were the results even published? It illustrated the Council’s dictatorial methods of process. | The Charette was an inclusive process involving the community and was adopted as a development brief in 2013. It is available to view on the Highland Council website. |
| | | There is a need to see hard evidence that there is a need for more social housing in Nairn. It is not the function of the common good to solve a Highland Council responsibility. | This has been answered above (see representations 3 & 10). |
| | | Assertion that more private housing would benefit Nairn is similarly unproven. There will be increased pressure on local services. When the bypass is built there will be land alongside that for housing. The argument that people want to relocate to Nairn is spurious and suggests that speculative developers are involved in the proposal to sell. | This has been answered above (see representations 8). |
| | | To proceed with this consultation during a pandemic is an insult and damaging to the community. | This has been answered above (see representations 1, 2, 3 & 9). |

| | | | |
|----|---|--|--|
| 38 | Nairn River Community Council plus Hamish Bain, Mandy Lawson and Veronica MacKinnon – all submissions in identical terms. | It exposes historic shortfalls in best practise for Nairn Common Good which should have been addressed first as well as serious conflicts of interest inherent in Common Good governance structure for Council and elected Members as Custodians of Common Good. | This has been answered above (see representations 2). |
| | | <p>Inappropriate timing:</p> <ol style="list-style-type: none"> 1. Why has Council chosen to consult now when there can be no proper public engagement and no disposal is actually proposed at this time? 2. Council has inconsistent approach to public consultations – it has postponed the new Inshes roundabout consultation due to lockdown restrictions. 3. No evidence of any Council Committee considering or approving in public a decision to consult on disposal of Sandown Lands. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 1, 2, 3 & 9). 2. The majority of consultations have proceeded over the pandemic period in recognition that business must continue. 3. The consultation is an information gathering exercise. A request to open a consultation is competent to come from a Ward Business Meeting. Any decision on the outcome of the consultation (after all information has been received) must then be made at either Area Committee or full Council depending on value in accordance with Council Scheme of Delegation. |
| | | <p>Consultation is inadequate in quality and quantity:</p> <ol style="list-style-type: none"> 1. No business case for disposal at this time | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 1, 2, 3 & 9) . 2. The value placed on the site is provided only as a guide and is purely for the purposes of giving an indicative net figure for inclusion in the consultation document. The figure was arrived at having cognisance to comparable bulk residential land sales evidence elsewhere in Highland, in particular Nairn and |

| | | | |
|--|--|---|--|
| | | <ol style="list-style-type: none"> 2. No evidence or verification for extremely low valuation of the land given 3. No plan for how sale proceeds would be used to benefit Nairn 4. No cost benefit analysis for selling or any other disposal 5. Not clear what people are being asked to approve 6. Document does not provide financial detail, implications of proposal and no alternative disposal options 7. No opportunity for public exhibitions or face to face community engagement so not enough information to allow Nairn residents to reach a meaningful decision 8. Consultation fails to fulfil most of the requirements of national Standards for Community Engagement and the Scottish land Commission Good Practice Protocol on Common Good Land. | <p>Inverness. Consideration has also been given to the likely level of developer contributions and these have been deducted from the gross value to arrive at the net price of somewhere in the region of £7.0M. However, while there is a brief, there is no overall detailed masterplan and therefore, there are still a number of unknown costs associated with the site. To that end and in accordance with valuation practice, reliance on comparable residential land sales evidence has been utilised.</p> <ol style="list-style-type: none"> 3. This has been answered above (see representations 1, 2, 3 & 9). 4. This has been answered above (see representations 20). 5. Document makes it clear the consultation is on the proposal to dispose by sale for development. 6. Beyond estimation of market value, any other financial detail would be speculative in the absence of a firm offer on the table. The consultation is the opportunity for community to put forward alternatives to the Council proposal for consideration. 7. This has been answered above (see representations 2 & 3). 8. The consultation has been conducted in accordance with statutory requirements and relevant policies and procedures. |
| | | <p>Not best value for Nairn Common Good:</p> <ol style="list-style-type: none"> 1. Duty of Nairn Common Good trustees to obtain best value. 2. No rationale for sale and no cost benefit analysis provided demonstrating best value of proposal. 3. Unverified valuation – land at lowest value in 2 decades. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This forms part of the Common Good policy. 2. This has been answered above (see representations 20). 3. This has been answered above (See representations 1, 2, 3 & 9). 4. Reference to “static” refers to recent years supported by your values of £7m in 2013 and £6-7m now. The housing market in 2006-2010 was completely overheated and developers were significantly overbidding to secure sites . The reference to £22million offer was 50% above the 2nd highest offer for Sandown at that time. Following the world financial crisis funders introduced far stricter |

| | | | |
|--|--|--|---|
| | | <ol style="list-style-type: none"> 4. Told “land values are static” so why is it so much less than before? £14m in 2006 with bid of £22m, £10m in 2010, £7m in 2013 and now £6-7m minus developer contributions of £2.4m. 5. Not the time to sell inalienable Common Good land. 6. Councillors as Common Good trustees risk being held individually personally responsible if Nairn Common Good loses most of its value by inappropriate disposal. 7. Why sell in uncertain market when building of A96 bypass is likely to raise land values in Nairn 8. Only beneficiaries of a sale now would be a developer getting a bargain at bottom of the market and Council potentially gaining millions of pounds in developer contributions from Nairn Common Good fund at the expense of people of Nairn 9. Consultation provides no rationale for benefit to Nairn Common Good of sale of these lands. | <p>financial controls on developers resulting in significantly lower land valuations and this is expected to continue.</p> <ol style="list-style-type: none"> 5. This has been answered above (see representations 1, 2, 3 & 9). 6. Councillors are not trustees of Common Good but in any event are not at risk of such liability. 7. This has been answered above (see representations 8). 8. Developer contributions would be sought from any future developer of the site and not from the Common Good Fund. This would benefit the people of Nairn. 9. This has been answered above (see representations 1, 2, 3 & 9). |
| | | <p>Economic uncertainty for community and region not taken into account:</p> <ol style="list-style-type: none"> 1. Facing worst recession in hundreds of years. Even without Covid investments were on a downward trend. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 2). 2. This has been answered above (see representations 1, 2, 3 & 9). 3. This has been answered above (see representations 15). 4. This has been answered above (see representations 1, 2, 3, & 9). |

| | | | |
|--|--|--|--|
| | | <ol style="list-style-type: none"> 2. Not the time to sell property. It could continue to provide rental income while waiting for more economically stable times. 3. Economic uncertainty calls into question all housing need and demographics underpinning IMFLDP – these may have to all be recalculated. 4. Why the hurry to sell now other than to let Council and developer make future gains and get a low price bargain at expense of Nairn Common Good. | |
| | | <p>Single disposal is an inappropriate focus – sale for mass housing:</p> <ol style="list-style-type: none"> 1. Only option proposed is sale to single private developer for volume building which is likely to bring in least money to Nairn Common Good. 2. Flies in the face of Common Good law to achieve “the best that can be reasonably obtained” and to “have regard to the interests of the inhabitants of the area to which the common good formerly related”. 3. Many other potentially more lucrative and prudent options are open to Common Good trustees to maintain best value, revenue and long term benefit for people of Nairn from this asset. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 3 & 9). 2. Consultation is being conducted in compliance with Council’s responsibilities under Common Good legislation. 3. Consultation is the opportunity for members of the community to put forward such suggestions. Unfortunately, very few suggestions have been forthcoming. |

| | | | |
|--|--|--|---|
| | | <p>Key weaknesses in the proposal to sell whole lands to a developer:</p> <ol style="list-style-type: none"> 1. No business case to justify further mass out of town housing development. 2. Highland’s latest Housing Needs and Demand Analysis projects that Nairn will need only 129 new houses in total over next 10 years and Scottish Planning policy prioritises regeneration of town centres. If more affordable houses are needed focus on the empty town centre houses. 3. No information has been provided on how “infrastructure first” requirements would be funded – drainage, sewage, traffic congestion – this could place crippling charges on Common Good. 4. Need to learn from fact aspects of Lochloy development have not met community needs or resourced infrastructure as expected – no school, shops, community facilities, minimal social housing and one access road increasing traffic congestion. 5. Hundreds of thousands of pounds of developer contributions from Lochloy have yet to be accounted for by Council. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 2 & 3). 2. This has been answered above (see representations 3 & 10). 3. This has been answered above (see representations 6). 4. This has been answered above (see representations 6). 5. Developer contributions are outwith the scope of this consultation. 6. This has been answered above (see representations 3). |
|--|--|--|---|

| | | | |
|--|--|--|--|
| | | <p>6. Lochloy has provided housing for families wanting large private homes but little in type or size of social housing where most needs are for one or two bed homes which are less profitable for developer.</p> | |
| | | <p>Housing is not the purpose of Common Good land:</p> <ol style="list-style-type: none"> 1. Housing is a statutory function of Council not Nairn Common Good. 2. Any attempt by councillors as Common Good trustees to provide housing subsidised by Nairn Common Good in form of cheap or free land would be financially improper. 3. Councillors have a clear conflict of interest. 4. Council conflict of interest policies should be explained and made public. 5. No allowance for available and consented alternative sites for affordable housing in and around town. 6. Adjacent development at Delnies has not started. 7. Council has been at pains recently to communicate in the press that “there is a great need for social housing in Nairn” compared to rest of Highland. In fact, Nairn has second lowest housing waiting list. | <p>Responses:</p> <ol style="list-style-type: none"> 1. There is no suggestion that Common Good is undertaking a Council statutory function. 2. This is not the purpose of the proposal. 3. This is inaccurate. This has been answered above (see representations 2). 4. Administration of the common good is a responsibility under statute of the Highland Council. All Councillors must abide by the Councillors’ Code of Conduct. 5. This has been answered above (see representations 2 & 6). 6. Delnies is still proceeding but some infrastructure decision are directly affected by what may or may not be decided in respect of the proposal for Sandown. 7. This has been answered above see representations 3 & 10). 8. The question of possible benefit to residents of former Burgh is relevant to use of any proceeds of sale as it would be this that would form part of the Common Good fund. The allocation of housing is dependent on housing need in accordance with Council processes. The Council operates a Common Housing Register and shared Allocation Policy with Highland Registered Social Landlords (The Highland Housing Register). It operates within a legal framework and duties arising from the 1987,2001 and 2014 Housing (Scotland) Acts. The policy can be found on the Council’s website www.highland.gov/downloads/file/3066/highland_housing_register_allocations_policy |

| | | | |
|--|--|---|--|
| | | <p>8. If social/affordable housing is built at Sandown, it will not be targeted for sole benefit for Nairn but will be used to relieve waiting list problems for Inverness and wider Moray Firth area. As such the benefit to Nairn residents is not guaranteed.</p> | |
| | | <p>Conflicts of interest and bias towards Council rather than Nairn:</p> <ol style="list-style-type: none"> 1. Focus of the consultation document on sale of whole land suggests Council preference for outcomes putting Council's needs before those of Nairn. Selling land cheaply now is a win for Council and developer and a loss for Nairn Common Good. 2. If planning is consented when land is cheap, building could be delayed by developer for many years until values increase and it could be sold on with planning permission for a profit whilst Nairn Common Good had lost future income from the asset. 3. Sale for mass housing lets Council access potentially millions from Nairn Common Good in developer contributions to cover expenditure on essential infrastructure that would otherwise be a Council cost. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This is inaccurate and has been answered above (see representations 1, 2, 3 & 9). 2. This has been answered above (see representations 2). 3. Infrastructure requirements and the provision of any developer contributions will need to be factored into the delivery of the site. However, such costs would be sought from any future developer of the site and not from the Common Good Fund. 4. Regardless of what the position was and what was discussed over a year ago, the current position is that if there has been any developer interest through initial enquiries they have been informed that any steps to market the property cannot and will not be taken until the consultation process and, if approved, any Court proceedings have concluded. As stated previously no decision will be made on how the site is marketed until independent advice is received. Further, no offer for the land has been received. The agricultural leases are managed on the basis of short term leases from February to November with them being vacant from November to February. Also, no single tenant has had consecutive tenancies for a period over 5 years. These tenancies are managed and periodically checked on behalf of the Common Good by Scottish Agricultural College. 5. This has been answered above (see representations 2). 6. This has been answered above (see representations 2). |

| | | | |
|--|--|--|--|
| | | <p>4. Consultation document is contradicted by other evidence. It asserts “no offer has been made for the site” and that there is no developer involved yet over a year ago Nairn’s Ward Business Meeting minutes record that “time is critical and there have been several enquiries from developers about the land and now is the right time to market”. The agricultural lease has been renewed only until the end of 2021 because the land is to be sold.</p> <p>5. This does not inspire confidence that the consultation will take heed of public views opposing sale or making alternative suggestions to Council’s proposal.</p> <p>6. Clear conflict of interest – benefits for Council to get housing land as cheaply as possible but all Councillors are also charged to get the best return for Nairn Common Good and the community.</p> | |
| | | <p>Following actions show active bias of Council in relation to disposal of Sandown in favour of its own best interests rather than Nairn’s:</p> <ol style="list-style-type: none"> 1. 2018 a preliminary planning application by HHA for 70 houses on half of south field at Sandown was withdrawn as illegal because | <p>Responses:</p> <ol style="list-style-type: none"> 1. This is inaccurate – no planning application was submitted therefore could not be withdrawn due to illegality. HHA carried out a feasibility study to determine if this would be a viable site for assisting in meeting Council’s affordable housing targets. Included in this was contact with statutory authorities including the planning service regarding a screening application regarding whether an environmental statement would be required in the event of a planning application. HHA did not |

| | | | |
|--|--|---|--|
| | | <p>proper procedure was not followed for inalienable Common Good land.</p> <ol style="list-style-type: none"> 2. Council Main Issues Report currently out for consultation for IMFLDP prioritises Sandown as preferred site for volume housing for next 5 year period. However, Sandown lands contained in this consultation proposal are not shown or referred to on the “Call for Sites” digital platform as offered for potential development by Custodians of Nairn Common Good. It seems irregular that despite 2 other good options closer to town at Househill and Balmakeith South, Council wants to “promote” disposal of inalienable Common Good land as the only option. 3. No Site Assessment documentation has been provided to support Council “preferred” site status. | <p>proceed to submit a planning application, no developer was involved and no offer for the land had been received.</p> <ol style="list-style-type: none"> 2. The Call for Sites platform shows details of sites submitted for consideration in the IMFLDP review. In addition, sites allocated in adopted plans – such as Sandown - were considered to be carried forward to the new plan through the review. The Main Issues Report consultation clearly outlines the pros and cons of each site and the reasons for identifying them as either preferred, non-preferred or alternative locations for future development. This is supported by a detailed site assessment and Strategic Environmental Assessment which is available to view online. The feedback from the consultation is being considered. 3. This is answered in the response to question 2 above. |
| | | <p>Improper use of Common Good assets for economic or social recovery:</p> <ol style="list-style-type: none"> 1. Consultation states selling would make resources available to “support and lead recovery of Nairn”. It is not the function of Common Good to replace public spending on statutory services. It is not a proper use of such assets | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see representations 3). 2. This has been answered above (see representations 2, 10 & 37). |

| | | | |
|--|--|--|---|
| | | <p>to liquidate them to provide cash for ongoing economic or social recovery programmes.</p> <p>2. Common Good is to provide long term benefit for people of Nairn but selling this land will remove the amenity permanently and with it any capacity for future income generation.</p> | |
| | | <p>No alternatives to sale of whole lands presented or costed in the consultation:</p> <p>1. Selling individual plots for house builds by locals could fetch up to £150,000 each, leasing to provide long term income and create local opportunities for housing and business, selling small areas only not whole 38 hectares, community/tourist uses (HWLDP 16 priority), local amenities such as community hub to generate income, renewable energy generation to provide income.</p> <p>2. Using land as security against loans for Common Good to use to build community owned housing for Nairn to provide long term rental income.</p> | <p>Responses:</p> <p>1. This has been answered above (see representations 3 & 9). As previously stated no decision will be made on how the site is marketed until independent advice is received.</p> <p>2. Paragraph 6.5 Common Good Policy (published on Council website) <i>“Although the Council has the power to borrow to support the Common Good Fund activities using the Common Good assets as security; it is not considered good practice to do so.”</i></p> |
| | | <p>Other previously proposed community owned land use and projects are not considered:</p> <p>1. Scottish Government policy under Community Empowerment Act 2015 is to encourage community</p> | <p>Responses:</p> <p>1. This has been answered above (see representations 6 & 17). The consultation relies on the Charrette agreed with the community.</p> <p>2. This is still contained in the Sandown Development Brief.</p> <p>3. This is outwith the terms of this consultation.</p> |

| | | | |
|--|--|--|---|
| | | <p>land ownership. Council should not be trying to sell such a valuable resource without full community partnership and respect for longstanding area plans.</p> <ol style="list-style-type: none"> 2. South field has been ear marked for over 20 years as a wetland nature reserve with interpretative centre, playpark, café and tourist attraction which would provide employment and education opportunities. 3. Funds from sale of former Tradespark hall are available to erect a building for benefit of surrounding residents but plans have not been progressed. 4. Clear Council favours quick sale to developer rather than retaining for community use and Common Good. 5. Options for recreation, leisure and tourist gateway uses of Sandown were enshrined in local plans then Local Authority Development Plans then confirmed in 2012 charrette. 6. If sale goes ahead, control would pass to Council giving no guarantee that developer or Council would honour previous plans – area of housing now | <ol style="list-style-type: none"> 4. This is inaccurate and has been answered above (see representations 2). No decision has been or can be made until the consultation process has been completed. 5. This is still contained in Sandown Development Brief and referred to in consultation document. 6. This has been answered above (see representations 3 re planning). 7. This has been answered above (see representations 3, 5 & 9). |
|--|--|--|---|

| | | | |
|--|--|---|--|
| | | <p>proposed to cover more than double that agreed in charrette.</p> <p>7. Focus of consultation suggests Council has little interest in what is best for Nairn Common Good only in what can provide the cheapest land to develop and augment Council's stretched budgets with developer contributions diverted from Common Good saving Council from funding essential infrastructure from Scottish Government funds, Council tax and business rate revenues. Council would allocate money saved in this way to other communities undermining Nairn's fair share of Council funding.</p> | |
| | | <p>Developer contributions implications not costed or included:</p> <ol style="list-style-type: none"> 1. If land is sold for 350 houses then Nairn Common Good would have to pay £7000 per house in developer contributions from the sale proceeds. No mention of this in consultation. 2. Net income to Common Good would then be as low as £4m – very bad deal considering £22m was offered in 2008. | <p>Responses:</p> <ol style="list-style-type: none"> 1. This has been answered above (see comments above within this representation). 2. This has been answered above (see representations 5). The Council is obliged to consider best value at the time any property is marketed. |
| | | <p>Disputed appropriation of this land by Council and legality of title:</p> <ol style="list-style-type: none"> 1. In 2013 Council appropriated £344,000 of Sandown land to | <p>Responses:</p> <ol style="list-style-type: none"> 1. This is inaccurate. There was no transfer of ownership of the land. Common Good land is owned by the Council and it is not possible to transfer land from yourself to yourself. The arrangement confirmed by Council was implemented notionally |

| | | | |
|--|--|---|---|
| | | <p>recoup expenses incurred in process of attempted illegal land sale in 2008-9. This land is inalienable and Court permission should have been sought under section 75 Local Government (Scotland) Act 1973. As a result, £344,00 value of the land was transferred from Common Good account to Council general account without legal process being undertaken and was in breach of Common Good trustees fiduciary duties.</p> <p>2. The above is still in dispute, there is no clean title and the area appropriated by the Council has not been identified on any map. Pending resolution any sale would be illegal.</p> | <p>as a matter of accounting practice to formalise the actual position to the satisfaction of the Council’s external auditors.</p> <p>As there was not, not could there be, any disposal or appropriation, there was no requirement for Court approval. There was no breach of Councillors duties.</p> <p>2. This is inaccurate. Title to the land is registered in the name of Highland Council. Registers will not show the Common Good interest separately in the registration of title because it is the Council that owns Common Good land.</p> |
| | | <p>Nairn Common Good management and governance requires reform before any further disposals:</p> <p>1. Scottish Land Commission Good Practice Protocol on Common Good states “local authorities should encourage community involvement in decision-making processes around governance and management of Common Good assets”. Greater community involvement is long overdue and has been repeatedly promised – 2012 (community council</p> | <p>Common Good governance is outwith the scope of this consultation however, responses to the matters raised have been included here:</p> <p>1. The Highland Council has a statutory duty to have regard to the inhabitants of the former Burgh of Nairn when managing the common good. In certain circumstances a statutory framework dictates how such regard must be taken i.e. via community consultation. Highland Council is complying with its statutory responsibilities regarding Common Good and in accordance with the terms of the Land Commission Protocol.</p> <p>2. This has been answered above (see representations 2).</p> <p>3. Scheme of Delegation provides for Officer decisions in consultation with Ward Members in certain circumstances otherwise all decisions are made in Area Committee or full Council.</p> <p>4. This is not the case. Inverness Common Good Sub Committee is made up of a number of the elected Members from Inverness.</p> |

| | | | |
|--|--|--|--|
| | | <p>representatives to be included on new liaison body on Common Good) and 2017 (Council to work more closely with community) but nothing has been done to set up new governance structures or liaison body. New Common Good governance structures need to be in place.</p> <ol style="list-style-type: none"> 2. Clear conflict of interest on part of Councillors – their obligations to Common Good and to Council must be reviewed and revised. 3. Historic lack of transparency in Nairn Common Good decision making – further changes are needed to Council Scheme of Delegation. 4. Inverness Common Good has a locally selected independent Committee to oversee its assets 5. Nairn still has no neutral community representatives participating in Common Good decisions. Nairn’s Councillors make all the decisions with Common Good business largely progressed in private at Ward Business meetings with minutes only available via FOI requests as we are told they are not decision making fora. This is not acceptable. | <ol style="list-style-type: none"> 5. As noted as response 2, responsibility for ownership and management of Common Good was conferred on Local Authorities. Decision making therefore rests with the Local Authority. Other local authority areas may include community representatives on their committees for discussion purposes, but they do not have a decision making role. Ward Business Meetings are management meetings. As noted at point 3, the Scheme of Delegation provides officers day to day management responsibility and officer decisions in consultation with Ward Members may be discussed at Ward Business Meetings. Formal decisions are taken at local or strategic committee or at meetings of the Council. 6. This is inaccurate. There have been multiple occasions over recent years where the Council has engaged, consulted or worked with the Nairn community or parts of the Nairn community on specific projects or activities. Examples include Nairn Participatory Budgeting approach, Nairn Community Partnership Places and Spaces development, Development of the Nairn Shop Front Scheme, Nairn Links Development Plan, Nairn Harbour works, Nairn Bathing Waters Stakeholder Partnership, development of Dementia Friendly Communities. |
|--|--|--|--|

| | | | |
|----|-------------|--|--|
| | | <p>6. Only when law absolutely demands consultation does Council ask they opinion of Nairn community bodies and generally then only after key decisions have been taken in private.</p> | |
| | | <p>This public consultation is inappropriate, in adequate and ill-timed. For all the reasons stated within this representation it should be deferred as should any other consultations on further Common Good disposals until such time as discussions involving Nairn’s community councils and other community representatives have taken place to establish more transparent, impartial and independent governance structures, with full community input, to permit proper oversight and management of Nairn Common Good assets.</p> | <p>This has been answered above (see representations 2, 3).</p> |
| 39 | Iain Gordon | <p>North side should be kept as a community asset and turned into a family park with paths and cycle paths to the coast. It would attract visitors to Nairn. See East Links Family Park in Dunbar for an example.</p> <p>If the land was held by the community asset, the park facility could be developed privately with a proportion of the revenue coming back to the community in lieu of rent.</p> | <p>We note the varying opportunities for the site.</p> |
| | | <p>If sold to a developer even with planning permission, eventually all benefit will be lost to the community.</p> | <p>This has been answered above (see representations 2 & 3).</p> |

| | | | |
|----|-----------------|--|---|
| 40 | Iain MacDonald | The land has better alternative uses which have not been discussed with the residents of Nairn. I would like to have the chance to comment on future land use. | This has been answered above (see representations 2 & 3). |
| 41 | Iain Mackintosh | It is terrible that Nairn is to be subjected to even more housing, when the infrastructure is not in place to cope with the houses that are already here. It looks shabby with nothing being fixed when it is broken. | This has been answered above (see representations 6). |
| | | If the land is sold the money will not go to Nairn, it will go to Inverness. | This is inaccurate. Any sale proceeds in the event of a sale will be a capital receipt into Nairn Common Good Fund and used for the benefit of Nairn. |
| 42 | Ian Nalder | Before any decision to sell is made, a decision should be taken as to what Nairn is to be – a dormitory town for Inverness or a coastal resort for Inverness offering those with aspirations a pleasant lifestyle. | Nairn is and always has been viewed as a town in its own right and not as a dormitory town for Inverness. |
| | | Now that the bypass has been authorised it strengthens the case for building at Broadley/Househill/Balmakeith. Development at Sandown could then happen concurrently but of a different type to offer the less impoverished the opportunity to live peaceably and help bring prosperity to the town. | This has been answered above (see representations 8). |
| 43 | J A Corran | The lands could be used for projects to provide sustainable employment or projects that would add value to Nairn as a contemporary tourist destination. | This has been answered above (see representations 2 & 3 re purposes of consultation to gather information on alternate suggestions). |
| | | If Council is required to provide social housing it should not raid the Common Good to fulfil its obligations. | This has been answered above (see representations 3). |

| | | | |
|----|---------------|--|---|
| | | No evidence provided to support statement that increasing private housing stock will benefit Nairn community. It will only benefit those wishing to maximise profits from building on green field sites. | This has been answered above (see representations 3). |
| | | Effects on local services and infrastructure would be harmful in the extreme. | This has been answered above (see representations 6). |
| | | Discussion about the future of Sandown Lands should not be taking place in a pandemic. | This has been answered above (see representations 2 & 3). |
| | | Who will benefit from the sale? Not our local community. | This has been answered above (see representations 2, 3 & 4). |
| 44 | Jack Nelson | Sandown should be kept for all to enjoy. | This has been answered above (see representations 2, 10 & 37). |
| 45 | Jacqui Ronald | There is clearly public interest in what happens to this area of ground and the people of Nairn should be consulted and given the opportunity to buy into any future concerning this, | This has been answered above (see representations 2 & 3). |
| | | Sale and development would have an impact on the town. It would be close to and encroach onto Nairn Golf Club – the club brings visitors to the town and any negative impact on the club would affect visitor numbers. | This has been answered above (see representations 26). |
| 46 | Jane Kelly | Now is not the time to dispose – people are preoccupied with pandemic which will have a lasting impact emotionally, socially and economically. I would like to hear more and see plans in detail – this has not been possible due to restrictions. It should wait until we are back to normal. | This has been answered above (see representations 2 & 3). |
| | | Not convinced the benefits outweigh the disadvantages but if housing is to go | Such issues would fall into consideration in the event of any planning application. |

| | | | |
|----|------------|---|---|
| | | ahead, it should be well designed, attractive and environmentally viable social housing which benefits actual residents and young people of Nairn. Amenities like play area would also be required. | |
| | | Access and traffic flow is an issue. With empty shops and an industrial estate at the other end of town, I do not believe there is a case for mixed use. Concerned by creep towards allotments which are a long-established community asset. Plan seems to cover my allotment at plot 21. | This has been answered above. It is confirmed, the area of the allotments is excluded from the proposal. |
| | | I would like to hear more about how it will impact on residents overlooking the proposed development. | These are considerations that will be addressed within the planning process in the event of an application. |
| 47 | Jane Noble | Housing development would spoil the view across open land at Sandown to Moray Firth that Nairn is famous for. These fields are part of Nairn heritage and as important to stating what Nairn is as the beach and riverside. | Issue of landscaping has been addressed above (see representations 6). |
| | | Current infrastructure would not cope with more housing. | This has been answered above (see representations 6). |
| | | I would support Sandown Lands being used for projects to benefit the community, for example riding for the disabled, gardening projects for people with mental & physical disabilities, park for adults and children to enjoy etc. It would be good if individual groups would apply to Council with ideas for consideration. | Part of the hope of the consultation process is that such suggestions and ideas might be forthcoming for consideration, unfortunately very few responses have included such comments. |

| | | | |
|----|----------------|---|---|
| | | I hope the future of Sandown Lands is decided with more than paying lip service to the Community Empowerment legislation. | This has been answered above (see representations 20). |
| 48 | Jill Thomson | Often the complexities of interests and ownership are difficult to navigate. It seems the Common Good has, in the eyes of the Council, become one of their assets but I do not know if that is true. | This has been answered above (see representations 2). |
| | | It is of concern that, after so long of little discussion of decisions around this asset, suddenly there are imminent decisions. | Reasons for timing of consultation has been answered above (see representations 2 & 3). |
| | | This is not the right time. Not everyone is electronically mobile and may not be able to participate. There is clearly interest in the land and the people of Nairn should be fully consulted. The consultation should be put on hold until everyone can participate fully. | This has been answered above(see representations 1, 2, 3 & 9). |
| | | Cannot understand why they want to build on land that regularly floods. Also, we need to know about infrastructure re health care and education as well as what will happen to any rights of way and the allotments. | This has been answered above (see representations 6 & 30). |
| | | Little doubt there is a demand for housing and additional leisure facilities, but the balance has to be right between profit for owner and leisure, housing, green space and being visually attractive. | This comment is noted – all matters raised will form part of the decision making process. |
| 49 | Jimmy Ferguson | Current proposal is divisive and designed to bypass proper process by securing legal agreement to dispose of Common Good | No decision will be made on how the site is marketed until independent advice is received. It may be that Members may wish to consider some form of joint venture but |

| | | | |
|----|------------|---|---|
| | | <p>Assets without specific details. It should have been based on how to maximise the benefit of the CG asset to maximise the benefit to the community and the Common Good –</p> <p>Create a partnership between Council and Common Good and possibly an operating partner, lease the land, design an affordable housing model, create sustainable income for the Common Good. Common Good would retain its asset, Council would achieve delivery of housing with low capital outlay, generate rental income for Common Good. If there are developer contributions, these could be gifted to Common Good to benefit Nairn managed by a local committee.</p> | <p>as with any joint venture there are financial risks involved. The Nairn Common Good could also consider overage payments on any future sales.</p> |
| 50 | Joan Noble | <p>Councillor Heggie has repeatedly stated there is no decision to dispose at this time and no developer is “waiting in the wings” and has rejected claims that the local authority has a hidden agenda. He avers it is a theoretical procedure that will allow the Council to sell at any time in the future without further permission. However, Ward Business Meeting minutes and emails obtained via FOI over last 3 years suggest the contrary.</p> <p>From 2017 – 2020 there have been frequent emails between Council officers and developers. In 2018 there were detailed plans for Highland Housing Alliance. In October 2020 an email from a Council officer referred to an expectation</p> | <p>This has been answered above (see representations 1, 2 & 3).</p> <p>Any discussions between Members and Officers have been part of a legitimate process to consider whether to consult. No decision has been taken which obligates the Council. It remains the position that there are currently no ongoing discussions with developers and there can be no steps taken regarding marketing the land unless or until the proposal is approved by Council and then authorised by Court.</p> |

| | | | |
|--|--|--|--|
| | | that the land would be marketed in Q3 2021 if there was a satisfactory outcome to the consultation. Ward Business Minutes disclose comments about several enquiries from developers and that the time was right to market. | |
| | | If there is no disposal there can be no Court application as this necessitates such issues as benefit and best value to the Common Good being presented to the Court to ensure the Trustees are acting in the best interests of the Common Good and Nairn's citizens. If permission to sell at any time in the future was granted under unknown terms and by an unknown purchaser, it is conceivable the Council itself could buy for a fraction of what the land was worth. | There is nothing to prevent an application being made to the Court in the terms of the proposal contained in the consultation document. The requirement for best value is a statutory duty imposed on local authorities by Local Government in Scotland Act 2003. It is competent consult on and to seek authority to dispose of property when a purchaser is unknown – this is what the position would be with the property being placed on the open market. |
| | | Due to misinformation about discussions with developers, public in Nairn have been misled about Council not intending to sell. This affects how people would respond and renders the consultation null and void. | There has been no misinformation about the position. The consultation has been validly conducted. |
| | | If we accept there is no intention to sell, why is consultation happening at all? | This has been answered above (see representations 1, 2, 3 & 9). |
| | | The decision to consult has not been taken at any committee, therefore, is incompetent. We have been told that Ward Business Meetings are not decision making fora. | Officers instigated the consultation process following a request and discussion with Members. The consultation is an information gathering exercise which will feed into the decision making process. A decision to consult is therefore not required to be made in a Committee as this is not changing policy nor making a financial decision. Consideration of the consultation responses and any decision upon future actions will be taken in public at Committee. |

| | | | |
|--|--|--|--|
| | | Information in consultation document is inadequate as no credible financial details are available. This is imperative for residents before coming to any decision. | This has been answered above (see representations 2). |
| | | Impact of Covid – normally such a consultation would consist of public meetings and exhibitions. A decision to sell a significant portion of community land assets of the Common Good fund with minimal discussion and a flimsy consultation document is unacceptable and perverse if there is no intention to sell at present. The Inshes roundabout consultation has been postponed for exactly this reason. | This has been answered above (see representations 2 & 3). |
| | | The consultation does not fulfil the majority of the requirements of the National Standards for Community Engagement. | This has been answered above (see representations 2 & 3 – all statutory requirements have been complied with). |
| | | In June 2013 the Highland Councillors decided to appropriate £344,000 of Sandown land against alleged expenses incurred during the attempted illegal sale in 2008/9. This is disputed and needs resolved before the process can go further. As a result, there is no clean title to the land. | This is inaccurate and has been answered above (see representations 2 & 20) and in separate correspondence. |
| | | The consultation document is opaque on issue of developers contributions. Recent changes to Council processes mean these are now paid by landowners not developers. | This is inaccurate and has been answered above (see representations 38). |

| | | |
|--|---|---|
| | It is concerning that Nairn Common Good will have no control over how many houses are eventually built on the land. If the price is agreed, there will be no comeback if more houses than planned are consented. The Common Good could even lose money on the sale. | Any application for the site will be determined against the Development Plan and in particular the Sandown Development Brief. |
| | Road and sewage infrastructure are inadequate at Sandown and could be another crippling charge on the Common Good. | This is inaccurate and has been answered above (see representations 6). |
| | Sandown was valued at £14m in 2006, £10m in 2010, £7m in 2013 and now £6-7m (minus developer contributions). Councillors have a duty to place best interests of Common Good first. Now is clearly not the time to sell. Councillors Common Good position is the same as trustees of a charity and they are individually financially responsible if the Common Good loses most of its value as a result of this. | This has been answered above in relation to both Councillors duties and the fact they are not trustees. |
| | Economy is facing worst recession in 300 years. Investments may be wiped out; land will provide some income and still be there in a more stable economic environment. The Council and developer are planning buying "at the bottom" and getting a bargain at the expense of our community. | This has been answered above (see representations 2). |
| | There is a major conflict of interest. Council wants to get housing land as cheaply as possible and the Councillors are | This is inaccurate and has been answered above (see representations 2). |

| | | | |
|--|--|---|--|
| | | trustees of the Common Good fund. Council actions, minutes and emails strongly suggest the sale of Sandown is a “done deal” and that the consultation is a “box ticking” exercise with no need to consider local opinion suggesting alternatives. | |
| | | <p>Examples of bias:</p> <ul style="list-style-type: none"> • 2018 preliminary planning application by HHA later withdrawn because it was illegal in relation to inalienable Common Good land • Main Issues Report only puts forward Sandown as preferred option despite 2 other available and closer sites (Househill and Balmakeith) | This is inaccurate and has been answered above (see representations 2, 3 & 20). |
| | | No rationale for sale or cost benefit analysis has been given. There is only one option – sell all for volume building. This is likely to bring in the least money. This option cannot be disposed of in accordance with the law when only one option has been presented – s74(2) “must not be disposed of for a consideration less than the best that can reasonably be obtained” or the equivalent “have regard to the interests of the inhabitants of the area to which the common good formerly related”. | This has been answered above (see representations 1, 2 & 20). It is possible to propose a disposal with only one option as frequently happens when an asset is placed on the open market for sale. However, this consultation is on the principle of sale and no decision will be made on how the site is marketed until independent advice is received. |
| | | No research has been done on other options such as selling plots, leasing to | This has been answered above (see representations 2 & 3). |

| | | | |
|--|--|--|---|
| | | provide long term income or selling a small area only (the fields have some areas which are more valuable than others so a full assessment of the value of each area should be done) | |
| | | Scottish Government policy is to encourage community land ownership, common good is the original example of that. By seeking to repeatedly sell with negligible partnership or input from the community, the Council is contravening the letter and spirit of the Community Empowerment Act 2015. | This has been answered above (see representations 6, 20 & 38). |
| | | The south field of Sandown has been earmarked for over 20 years as a wetland nature reserve with community building, playpark, picnic area, café and tourist attraction which will provide employment. There is money left from the sale of Tradespark Hall that can be used to erect a building. If the sale proposed goes ahead all control goes to developer. There will be a loss of control of the plans that have been enshrined in the development brief after the 2012 charrette. There is no confidence that developer or Council will honour the land uses discussed with the community in 2012/13. The EIA of 2018 illustrates this as the land proposed in that for housing was more than double what was agreed in the charrette. The Council apparently has little interest in what is best for the Common Good or the | This has been answered above (see representations 1, 3, 6 & 8). |

| | | | |
|--|--|---|--|
| | | community only what can provide them with the cheapest land to develop. | |
| | | Housing is a statutory function of the Council not the Common Good. Any attempt by Councillors who are Common Good trustees to provide housing subsidised by the Common Good in the form of cheap or free land would be improper. Current Scottish Government and Council policy is to redevelop, renovate or purchase town centre property. Nairn is not expected to grow in population in the next 20 years so housing need will be low. We need jobs and infrastructure first. | This has been answered above (see representations 3). |
| | | It is impossible to judge if the comments about using proceeds for regeneration of the town and Covid recovery are legitimate or just a money saving opportunity for the Council. Possible uses for regeneration, housing, leisure etc are likely to be a substitute for statutory spend or regeneration grants which should go to Nairn but could end up going to other communities instead. | This has been answered above (see representations 3). |
| | | Scottish Government guidance on Common Good has been further clarified recently by the Scottish Land Commission Protocol for Common Good land. Specific expectation 3 – <i>“local authorities should regularly review how community engagement is incorporated into the management of Common Good land. Local authorities should encourage community</i> | No decision will be taken until the outcome of the consultation has been considered by Committee then Council which are public meetings. The statutory consultation process provides the community with involvement in this process. |

| | | |
|--|---|--|
| | <p><i>involvement in decision-making processes around the governance and management of Common Good assets”.</i></p> <p>All decisions regarding Sandown have been deliberately taken by officials and Councillors behind closed doors to exclude the community from knowing what was going on or participating in the decision making.</p> | |
| | <p>In 2012 William Gilfillan and Sandy Park promised that community council representatives would be involved in decision making but this has never happened. Despite requests, Nairn still has no neutral representatives participating in decisions. Only the 4 Councillors (who have a major conflict of interest) make the decisions mainly behind closed doors with minutes only available by FOI.</p> | <p>The responsibility for Common Good was conferred on Local Authorities as described in answers to representations 2 above. Decision making in Nairn accords with the process in respect of all other Highland Common Good funds.</p> <p>Issues relating to conflict of interest and decision making meetings have been answered above.</p> |
| | <p>There is a strong impression that the main driver for the sale is convenience and financial benefit of the Council and that the proceeds will be frittered away propping up spend on things that should be met from Council statutory spend. The democratic deficit leaves Nairn with no say on spending and is contrary to government guidance.</p> | <p>This has been answered above (see representations 3).</p> |
| | <p>Sale of the family silver cooked up behind closed doors by predatory Inverness officials must stop and be replaced with partnership with our community and local democratic decision making to ensure all alternatives are considered in the true</p> | <p>This has been answered above (see representations 2 & 3).</p> |

| | | | |
|----|------------------------|---|--|
| | | spirit of the Common Good of our community. | |
| 51 | John Gallagher | It should remain as it is, facilities in Nairn get more overcrowded and there are enough houses unless it is all social housing for local people at an affordable rent. | This has been answered above (see representations 2, 6 & 10). |
| 52 | Jon & Julie Pierce | We are direct neighbours and knew it was possible the land would be sold and developed. We have followed community council reports and agree the timing and current circumstances are not right. We would consider a more detailed application but not a request for carte blanche permission to dispose. | This has been answered above (see representations 1, 2, 3 & 9). |
| 53 | Joseph Telfer | There should be no sale at this time. Country is in the midst of a pandemic and Scotland is to host Cop26 conference in November on climate change. Land should be enhanced and used for nature as infrastructure and employment opportunities are insufficient. This should be given more priority than housing. | This has been answered above (see representations 1, 2, 3, 6 & 10). |
| 54 | Julian Macnab | The land has belonged to the people of Nairn for over 430 years. The Council has operated behind closed doors for its own benefit and developers gain which is unacceptable. | This has been answered above (see representations 2 & 10). |
| 55 | Karen & Iain Henderson | Allotments must be protected. Additional fencing to ensure security and possible extra water supply may be required. | Consultation document states the allotments are excluded from the consultation – fencing/water would fall into possible planning conditions. |
| | | Our preferred option would be to retain it as green space. The bypass will free up | This has been answered above (see representations 2, 3, 6 & 8). |

| | | | |
|----|---------------|---|--|
| | | land for development. Once this common good land is gone, it is gone for good. As a bare minimum the areas identified for wildlife, wetland and social activity should be protected. | |
| | | If it must be developed, priority must be given to green space and not squashing as much in as possible. The pandemic has shown how important green space is. If it is to be developed, make it an example of excellence and put Nairn on the map for the right reasons. | This has been answered above (see representations 6). |
| | | Poor infrastructure – learn from Lochloy. | This has been answered above (see representations 3 & 6). |
| 56 | Katrina Woods | Why hurry to sell if no interested developer? Land should be sold in smaller lots in hope value will increase. Developers contribution would not raise much money for Common Good. Difficult to seek public views – Zoom meetings and emails are not effective in engaging community. There should be a Common Good committee for Nairn working alongside the Councillors ensuring community input and reflect interests. Housing is a priority in Nairn and will be in the foreseeable future. In other Highland areas Common Good land has been or will be used to build community housing – this could generate an income for common good, jobs for local contractors and maybe apprenticeships for young people. Gridlock in Nairn has been a problem for years – more housing will impact on business, | Mostly this has been answered above (see representations 1, 2, 3 & 9). There is no reference to Common Good land having been used or to be used for community housing in other Highland areas. |

| | | | |
|----|-----------------|---|---|
| | | tourism and commuters without infrastructure to support it. | |
| 57 | Lesley Mitchell | This is not the time to be making this decision over Sandown. | This has been answered above (see representations 1, 2, 3 & 9). |
| 58 | Liz & Danny Bow | Covid-19 is causing enormous financial challenges. Common Good assets are the basis for Nairn Tourist economy and make it a desirable place to live and work. They should form part of an economic regeneration recovery plan. Sandown should not be looked at in isolation. The consultation should be withdrawn, and the Council should work with the inhabitants post Covid having good open consultation and the town of Nairn should make the decision regarding the Common Good ground. | This has been answered above (see representations 2 & 3). |
| 59 | Liz Burgess | The land belongs to the Common Good not the Council and should not be sold off to balance Council deficits. | This has been answered above (see representations 2). |
| | | Selling to a developer will result in high density housing – who will buy it and where will they work? It will put further strain on Nairn’s struggling resources. Wildlife will be destroyed, and environment ruined and will deter from Nairn’s beautiful vista. | This has been answered above (see representations 3, 6 & 9). |
| | | Current traffic flow is a nightmare and very dangerous. | This has been answered above (see representations 6). |
| | | Nairn has the third lowest requirement for housing on Council waiting lists so how can further development be justified? | This has been answered above (see representations 3 & 10). |

| | | | |
|----|---|---|--|
| | | Why is consultation being done now in a pandemic when people cannot get together to consult? | This has been answered above (see representations 1, 2, 3 & 9). |
| | | 9 years ago, there was a proposal for a development for 550 houses which was opposed and went to public enquiry. Decision went in favour of the opposition so what has changed since? | Position regarding the last proposal has been clarified above (see representations 20). |
| 60 | Lorraine Maclennan and Rod Maclennan – submissions in identical terms | Resident of Altonburn Road so I have a vested interest – Sandown Farm Lane and Altonburn Road are not fit for purpose now and cannot cope with traffic. To add even more cars using the road daily would not be viable. | This has been answered above (see representations 6). |
| | | The policing of any estate having lots of cycle paths and walkways can be problematic and increase anti-social behaviour making residents lives miserable. Limited police resources means foot patrols will be non-existent. Such a development will not bring the greener, happier life the Councillors think it will. | It is hoped that any future development can facilitate health and active travel to enable residents to access the day to day services that they need and get access to employment and education. Consideration needs to be given to how development helps to design out crime but policing itself is a matter that is not directly related to active travel. |
| | | The land is prone to flooding and losing more of it to concrete with a development will increase this. | This has been answered above (see representations 30). |
| | | There should be full and open consultation – online meetings are not full and open. | This has been answered above (see representations 2 & 3). |
| 61 | Lynn Alexander | Further ribbon development along Inverness Road is unnecessary and harmful to the town. Currently entry to Nairn is rural and vastness of Achareidh is disguised with floral displays. This new | This has been answered above (see representations 3 & 6). |

| | | | |
|----|----------------|--|---|
| | | development will be an eyesore. Where is the employment for dwellers of such an estate? Nairn High Street is a sad shadow of its former self. Tornagrain should be expanded where the architecture has been done sympathetically. Common Good should mean what it says. | |
| 62 | Magnus Swanson | The reasons given in the consultation document for the proposal are inconsistent with each other – for instance if there were detailed proposals to dispose of the whole with a planning condition that the different areas are to be used as stated in the Sandown Development Brief, that could be discussed. Basically ,what is being requested is to allow the Council to dispose of all the land for any price it wishes at any time it deems suitable. This is not what the statutory process is meant to cover. | This has been answered above (see representations 2 & 3). |
| | | The consultation should be withdrawn to allow collaborative discussion with interested parties to refine the Sandown Brief which could then form detailed proposals for a consultation. | This has been answered above (see representations 2 & 3). |
| | | There remain significant issues about the purported appropriation by the Council of some of the land – these need to be resolved before any consultation. | This has been answered above (see representations 2). |
| | | Sandown Land should be used for the benefit of Nairn and only disposed of with the utmost care and thought after proper collaborative consultation. | This has been answered above (see representations 2 & 3). |

| | | | |
|----|------------------|---|--|
| | | The current consultation is legally ineffective as it does not contain any concrete conditions or monetary values. | This is inaccurate and has been answered above (see representations 2, 3 & 14). In addition, there is no specific requirements for contents of consultations. |
| | | The proposal and consultation does not comply with the Scottish Land Commission Protocol on use and management of Common Good land. | This is inaccurate. The consultation has been conducted in accordance with statutory duties and in compliance with the Protocol. |
| | | I am aware that FOI requests have disclosed extensive and detailed proposals to develop an area of Sandown Lands has progressed recently. Failure to disclose details of this is misleading and renders the consultation ineffective. | This is inaccurate. The FOI disclosures relate to old discussions. There are no current discussions being progressed and therefore, no details to be disclosed. The consultation is valid. |
| 63 | Margaret Moloney | Object to sale of any Common Good assets in Highland or Scotland generally but specifically to build housing estate. Greatest recipients will be developers, houses will have little character and doubtful if they will still exist in 100 years. Once sold, assets are gone forever, and we will be left poorer. Do you ever buy or acquire Common Good assets? Consultation is inadequate. Any plans should involve community activities – bowling greens, tennis courts, football pitches, allotments, swimming pool, campsite etc. Try to think for the greater good and an increase in community amenities. | These have been answered above (see representations 2, 3 & 6). Regarding purchase or acquisition – no new Common Good can be created after the abolition of the Burghs in 1975. However, on occasion some of Highland funds have been in the position of using cash assets to invest in property. Highland has reflected this in the asset registers as Common Good investment property. |
| 64 | Michael Green | Conducting the consultation during a global pandemic is not appropriate. Nairn's fractious relationship with the Council has often resulted from top down | This has been answered above see representations 2, 3, 18 & 20). |

| | | | |
|--|--|---|---|
| | | planning and a lack of genuine engagement. Consulting in the current circumstances will only fuel such feelings that it is a tick box exercise. | |
| | | Following 2012 charette and instigated by convenor Sandy Park, it was agreed that Members would engage with Community Councils to consult regularly on Nairn Common Good. This would have aligned with Community Empowerment and created a forum where the views of Nairn people would be of paramount importance. Such a forum should be the starting point for an open and transparent Common Good. The fact that we are so far removed from that model reinforces my view that the consultation is flawed and should be deferred or cancelled. | This has been answered above (see representations 2, 3, 6, 10 & 38). |
| | | FOI's have revealed the Council has been in detailed discussions with Barratt Homes and Chaps since 2017 reinforcing the view that this is a fait accompli and a tick boxing exercise. | This is inaccurate and has been answered above (see representations 3 & 38). As previously stated individual developers have made preliminary enquiries and been informed no decision regarding the sale has been made . No detailed discussions have taken place and this comment is erroneous . |
| | | I agree with the view put forward by a senior Council development officer to myself and other Members whilst I was a Councillor that development of the portion of land adjacent to Sandown Road would enable a developer to use existing infrastructure to create a very profitable small scale development. Unfortunately, any subsequent development of the remaining lands would involve prohibitively expensive | No decision will be made on how the site is marketed until independent advice is received. |

| | | | |
|----|---------------|--|--|
| | | bespoke infrastructure for a much reduced footprint rendering it commercially unviable and effectively worthless. This undermines the principle of best value. | |
| 65 | Mike Bray | I object strongly against sale for development: <ol style="list-style-type: none"> 1. Proposed access roads are totally unsuitable 2. Mains water supply to this area is very poor 3. Sewage system could not handle another development 4. Planner always tries to squeeze maximum number into minimum space | These points have all been answered above (see representations 3 & 6). |
| | | Suggestions for land to south of A96 Create a recreational facility – wetland/wildlife area with dog walking, maybe small stable with livery and riding with rest of land being used for orchards. | The Council will wish to see how any environmental assets and qualities are integrated in the design and layout of the development. The wetland area is identified in the Sandown Development Brief as an area for safeguarding as open space within any future development. Any drainage issues would need to be incorporated in the design and layout of the scheme, which may include open space or SUDS as a means of managing any drainage issues identified. |
| | | Suggestions for land to north of A96 Leave as they are for agricultural use or maybe a community farm. This would benefit the environment and provide opportunities for exercise. Long term benefits of environmentally sound projects would be better than creating more grey, featureless schemes for small cash gain and prospect of income from council tax. | We note the varying opportunities for the site. The Council will wish to see how any environmental assets and qualities are integrated in the design and layout of the development. |
| 66 | Mike Morrison | Comments: | Responses: <ol style="list-style-type: none"> 1. This has been answered above (see representations 1, 2, 5 & 9). |

| | | | |
|----|-----------------|--|--|
| | | <ol style="list-style-type: none"> 1. Land should not be sold when prices are at historic low. 2. Use other council owned property, land and upper floor unoccupied property in High Street first. 3. Agreed plan for how to use Common Good funds to benefit all citizens and town is required. Nairn services and facilities are in continuous decline and need support to provide basic services – post office, police and council services. 4. Use Council powers to provide ground rules to stop undignified and unrepresentative behaviours that undermine local democracy and faith in local Councillors. 5. Use Zoom meetings and other communication tools to provide Nairn citizens with platform to make opinions known which would lead to more engaged public who can understand Council objectives and influence Common Good policy making. | <ol style="list-style-type: none"> 2. This has been answered above (see representations 3, 8, 10 & 20). 3. This has been answered above (see representations 2, 3, 6 & 10). 4. Unclear what behaviour is being referred to. 5. Online meetings have taken place on occasion with Community Councils. No request was made for such a meeting in connection with this consultation and, in any event, all representations must be in writing. Such online meetings can be considered as a way of moving forward subject to appropriate structure and organisation. |
| 67 | Nairn Golf Club | Development will be seen from the club and unsightly to members and visitors. Its unspoilt views and aspect is one of its attractions and brings many visitors to Nairn. It could jeopardise future major golf events and have negative long term consequences for the club, Nairn and the economy. | This has been answered above (see representations 6, 10 & 26). |

| | | | |
|----|-------------------------------|--|---|
| | | Development shows access routes to the beach through the course. This would be detrimental to the golf course and exacerbate the issue of excessive walkers, dogs and cyclists interfering with golf. An increase in footfall will heighten safety issues. | This has been answered above (see representations 26). |
| | | Due to the pandemic, it is not the time for people of Nairn to make a considered decision on one of the town's most valuable assets. The current economic climate is not a prudent time to maximise land values. | This has been answered above (see representations 2, 3, 9 & 18). |
| | | Sandown brief is nearly 10 years old, people's views on the predominantly housing development on the land may have changed. | This has been answered above (see representations 6 & 10). |
| | | Character of Nairn and its rejuvenation will not be best served by a new housing development on the western access corridor. New housing estates often create a sterile "new town" character. | The strategy for housing delivery is to provide a mix of tenure and types of housing in a range of locations. Building on the existing policy framework, a new Placemaking Audit – as proposed in the Inner Moray Firth Local Development Plan - aims to ensure that new developments are well designed and integrated with the surrounding land uses and within an existing community. |
| | | Council should not devolve responsibility for disposal of the land for development which will rely on the formal planning process to address design aspects – ultimately there are no guarantees in ensuring the best outcome for this key area of land. | Any sale of land or property is reliant on the planning process. This site has been through a Charrette and a Development Brief has been agreed. Any sale will be subject to complying with this brief. |
| 68 | Nairn Residents Concern Group | The reasons for disposal are unclear and unsupported by evidence. No overall strategy or policy for Nairn Common Good has been agreed with the community. The | This has been answered above (see representations 2 & 3). |

| | | |
|--|--|---|
| | <p>case has not been made in terms of development, housing need and best value. The timing is inappropriate due to Covid. No alternative proposals have been put forward.</p> | |
| | <p>Council's approach has been incoherent and contradictory, justifications for sale unpersuasive and intended disbursement of any proceeds imprecise. Giving Councillors discretionary consent to a possible sale on unknown terms for unspecified purposes at some time in the future is not acceptable.</p> | <p>This has been answered above (see representations 2, 3, 5, 7 & 9).</p> |
| | <p>The development brief adopted in 2013 is indicative only not prescriptive. It is based on discussions 9 years ago and is not an adequate basis for current and future decisions. It is based on a single assumption that the land should be developed. This may be a Council objective but is not self-evidently the best way to protect and enhance the Common Good. There should be no disposal or development until there has been a full, up to date review of all options.</p> | <p>This has been answered above (see representations 2, 3, 6 & 10).</p> |
| | <p>The validity of housing need and demand forecasts is open to question. A view quoted in an FOI response that <i>"achieving best value is not always related to monetary value and the Nairn Councillors, in focusing on the provision of affordable housing for Nairn in their local strategic priorities, can help to achieve the best outcome"</i> is a specious and subjective</p> | <p>This has been answered above (see representations 3 & 10).</p> |

| | | | |
|--|--|---|---|
| | | <p>statement unsupported by evidence. There is no objective basis for asserting that the provision of affordable housing, of itself, is necessarily best value. Achieving the best financial return for the Common Good and its beneficiaries is a primary fiduciary responsibility of trustees. The statement suggests the Council sees maximum value as secondary to delivering affordable housing targets. Provision of housing is not a Common Good function.</p> | |
| | | <p>It is nonsense to suggest now would be the best time to dispose. Land values have declined in the last 10-15 years (£15-20m in 2006, £10m in 2013, £6-7m now). Covid has driven the economy into deep recession which is likely to depress land prices for some time. Future unpredictability is a reason to retain not dispose of the asset.</p> | <p>This has been answered above (see representations 1, 2, 3, 5 & 9).</p> |
| | | <p>The timing of the consultation is ill-judged in terms of the scope of effective public consultation. The constraints on public meetings, minimal opportunity for collective discussion and constraints of online meetings make it an inappropriate time to seek community views on a subject of major and far reaching implications for the town's future. The consultation should be deferred until normal debate and full examination can be arranged.</p> | <p>This has been answered above (see representations 2 & 3).</p> |
| | | <p>It is unacceptable and a misuse of Common Good assets to use any proceeds</p> | <p>This has been answered above (see representations 3).</p> |

| | | | |
|--|--|---|--|
| | | <p>to lead and support Covid recovery. It is not a function of Common Good to substitute for or replace public spending on statutory facilities or services. Nor is it a proper use of assets to liquidate capital to provide cash for ongoing economic or social recovery programmes – these are a matter for national and local government funds. To look to the Common Good to meet and replace Council expenditure is a clear breach of the Common Good trustees fiduciary duties and highlights their conflict between trustee role and Councillor role.</p> | |
| | | <p>The claim there is no developer involved is contradicted by Ward Business Meeting notes that record over a year ago that Councillors and officials were urging that Sandown be put up for sale. These notes included comments that <i>“there have been several enquiries from developers about the land and now is the right time to market”</i>.</p> | <p>This has been answered above (see representations 3 & 21). Individual developers have made preliminary enquiries in the past, as they would do with any zoned sites, but the position has been made clear that nothing can be done until a consultation has taken place.</p> |
| | | <p>It would appear contrary to the principles of the Community Empowerment Act to seek unconditional community agreement for a prospective future decision on unknown terms about the fate of a major Common Good asset. Any proposal put to Sheriff Court should be sufficiently detailed to enable the public to consider its merits and for the Court to make a judgement as to whether the proposed disposal or use is</p> | <p>There is nothing in the Community Empowerment Act or guidance preventing a proposal in the terms contained in the consultation document. The word <i>“appropriate”</i> in section 75 1973 Act means to appropriate or change the use of and not whether what is being suggested is an appropriate course of action.</p> |

| | | | |
|--|--|---|--|
| | | <i>“appropriate”</i> in terms of section 75 1973 Act. | |
| | | No other appraisal or evaluation has been presented of the benefits – financial or non-financial – that would be delivered in return for disposing of this substantial land asset. Using the funds to substitute for statutory or public spending is a net loss not benefit to the community | In the event of the sale going ahead, the proposals for the use of funds received would be subject to strategic planning and further discussions before any decisions were made. |
| | | The consultation document notes the need to protect and maintain assets for future generations and notes the minimal current rental but then suggests selling off the asset. Once the lump sum received is gone, it is gone. This is short sighted strategy which delivers neither best value nor long term income. | This has been answered above (see representations 5, 10, 14 & 36). |
| | | Disposing now gives developers the chance to “land grab” at a bargain price. There is a risk Nairn will be ripped off and developers will be the main beneficiaries. | This has been answered above (see representations 3, 8 & 38). |
| | | If sold for housing, the realisable value and anticipated gain would be significantly diminished by the obligation for the Common Good as landowner to pay developer contributions. | This is inaccurate and has been answered above (see representations 24 & 38). |
| | | Sale of the whole site is unacceptable. In return for a lump sum, the Common Good and local community lose the asset and the opportunity to influence its future use. The site will have a critical role in determining future growth and character of the town. Traditionally, Common Good | This has been answered above (see representations 2, 3, 7, & 9). |

| | | | |
|--|--|--|---|
| | | has been seen as an amenity for all. Disposal removes that amenity permanently. | |
| | | <p>Possible examples for alternatives to consider are:</p> <ol style="list-style-type: none"> 1. Retaining as a capital asset in the expectation it will appreciate in value. 2. Using it as collateral security for loan funding community projects. 3. Sub-dividing and selling part only for development. 4. Sub-dividing and selling progressively in a series of sales over an extended period. 5. Plots for shared ownership and/or self-build plots for members of community. 6. Long term lease in entirety or parts – like Longman in Inverness to bring in income. 7. Long term leases for social or community benefit such as with Dunbar Golf Club but on more favourable lease terms. 8. Long term lease to local housing associations or social enterprises. | No decision will be made on how the site is marketed until independent advice is received. Some of these suggestions can be considered including long term leases but the capitalised values of the leases may be significantly less than the outright sale value given the suggested uses. |
| | | <p>If community preference is to achieve social and other benefits then the following are options:</p> <ol style="list-style-type: none"> 1. Long standing plan to create wetland reserve which would generate tourism income. | This has been answered above (see representations 1, 2, 3, 6 & 10). |

| | | | |
|--|--|--|---|
| | | <p>2. Retention as open space for recreation – new venue for Farmers’ Showfield or more allotments – proper use of Common Good land and benefits could be quantified in financial terms.</p> <p>3. Simply manage as an open green space – has intrinsic value which can be calculated. There is a growing importance in leisure, recreation and health so there is no reason why Sandown could not be retained for environmental and recreational benefit in the same way as any other large urban or suburban park.</p> | |
| | | <p>The position regarding title points to a conflict of interest and raises questions about the Council’s motives. The consultation document says the property “<i>may</i>” be inalienable. This is misleading. There is no doubt it is inalienable and Court consent is mandatory.</p> | <p>This is inaccurate. It is accepted that the land is inalienable. A Court application is required where a question as to the right of the authority to alienate is raised. This means that even if land is alienable, if a question regarding this were raised a Court application would be required.</p> |
| | | <p>There was a previous sale attempt in 2006-2010 which collapsed when planning permission was refused. Court consent was not sought or granted in respect of that sale initiative which raises the fact it was not legally valid, and any actions and outcomes are null and void.</p> | <p>This is inaccurate. This point was clarified during the investigations leading to the publication of the asset register in 2020. There was a misinterpretation of the wording of the Charter resulting in a view that the land was alienable. This was not correct, and it has been made clear in the asset register that the land is inalienable. This does not make the actions and outcomes null and void because they were based on assumptions made at that time. This matter has been clarified and there is no need for any further action.</p> |
| | | <p>When title to Sandown Land was registered with Registers of Scotland in 2006 the Council solicitors did so under</p> | <p>This is inaccurate. When title is registered for the first time, proof of title must be produced. In the case of Sandown Lands this would have been the Royal Charter. When the Burghs were abolished in 1975, section 222 of 1973 Act transferred all land held as</p> |

| | | |
|--|---|---|
| | <p>section 222 Local Government Act 1973 transfer of property. They did not provide full and accurate information that this land was inalienable Common Good land. They had not secured consent to alienate the land. This raises the possibility that the 2006 registration of title was incomplete, improper or invalid.</p> | <p>Common Good to the new district and island councils. Transfer provisions were repeated in section 15 of the 1994 Act. Therefore, Common Good land is owned by the Council but subject to provisions that it must be held and accounted for separately from other Council property. Registers of Scotland do not differentiate from one form of Council owned property to another and would not record title as specifically inalienable Common Good land. As a result, the 2006 registration is correct and valid.</p> |
| | <p>In 2013 the Council claimed a pro indiviso share of Sandown land in lieu of fees, legal costs and expenses incurred during the previous attempt to sell the land. This was done without Court consent and would appear to be improper and illegal. That claim is subject to challenge.</p> | <p>This is inaccurate and has been answered above and in separate correspondence (see representations 2, 20 & 38).</p> |
| | <p>The 2006 registration and 2013 claim need to be fully addressed before any further initiative is undertaken in respect of the use or disposal of the land.</p> | <p>These matters have been fully answered (see answer to question above and referral to representations immediately above).</p> |
| | <p>There is a fundamental conflict of interest between the Councillors' "fiduciary duty" as Trustees of Nairn Common Good to protect, safeguard and enhance the Common Good which they hold in trust for the benefit of the residents of Nairn and their task as Councillors to pursue and advance the aims of the Council as local authority whose responsibility includes provision, funding and management of statutory services, housing etc.</p> | <p>This has been answered above (see representations 2).</p> |
| | <p>The conflict of interest is highlighted in the Council claim to a share of Sandown land and its role when the onsite survey was</p> | <p>As previously stated HHA carried out a feasibility study to determine if this would be a viable site for assisting in meeting Council's affordable housing targets. HHA are a partner organisation to the highland council regularly carry out feasibilities for the council to</p> |

| | | |
|--|--|---|
| | <p>carried out by HHA in 2018. The Council has a major stake on HHA. It was asserted that no decisions had been taken and the publication of the planning application was a mistake by a “junior official”. This revealed evidence of the Council’s vested interest and raised suspicion it was seeking to develop the land without public discussion, local consultation or court consent. The sale proposal seems in part designed to enable the realisation of the Council/HHA plan which is no justification and unacceptable.</p> | <p>assist the councils role as strategic housing authority. HHA did not proceed to submit a planning application, no developer was involved and no offer for the land had been received. If HHA wanted to purchase the land there offer would have been considered and they would have had to go through the same process as any other organisation including public discussion. As the land is Common Good this would have included Community Empowerment consultation and court consent.</p> |
| | <p>From 2019-2020 the use and disposal of Sandown Lands was discussed in closed Ward Business Meetings between Councillors and Officials on at least 20 occasions. At no time did Nairnshire Committee consider the use/disposal of Sandown. Nor was there any press or public reporting. The proposal is being presented as a <i>fait accompli</i>. Records reveal the impetus to sell came from Council housing and development officials with the only justification put forward to meet housing targets. This was endorsed by Councillors. At no point was there a discussion about any benefit to the Common Good of selling. It is not the function of the Common Good to provide housing.</p> <p>Records reveal that no consideration was given to any other options for the use and development of the land. As Trustees the</p> | <p>This has been answered above (see representations 38). No formal decision can be put to Committee (and thereafter Council) until the consultation process is complete. As previously stated the consultation process forms part of the information gathering exercise which will help inform the decision making process. Within that decision making process all information, comments, suggestions and opinions will be considered and any decision will be made having regard to the interests of the inhabitants of the former Burgh.</p> |

| | | | |
|--|--|--|--|
| | | <p>Council has a clear and over-riding duty to evaluate all options in order to assess best value and to ensure appropriate benefit to the community. Simply endorsing a recommendation by a housing development official to sell off the land is not due diligence.</p> | |
| | | <p>It is right and reasonable for the Council to draw up development plans. Recent government guidance and legislation states such plans should be locally initiated and reflect local priorities. The local plan's Main Issues Report is in draft and still out for consultation. However, it reflects an approach by the Council to serve only development objectives. It identifies Sandown as the preferred site for volume housing development because it is <i>"a logical expansion area, is located on relatively flat land and with improved active travel infrastructure can provide convenient connections to the centre and main facilities"</i>. These are all relevant to a developer but take no cognizance of it being Common good land. Other sites around Nairn are non- preferred (Nairn South, Househill, Balmakeith, Granny Barbour's Road) for reasons such as distance and flood risk. This overlooks the challenges of water supply, drainage, sewage and wastewater which will be constraints on substantial development at Sandown.</p> | <p>This has been answered above (see representations 2, 3, 6, 8, 17, 18 & 19).</p> |

| | | | |
|--|--|---|--|
| | | This underlines the fact that the proposal to sell off Sandown is driven primarily by Council development objectives and a now outdated development brief and not by trustees obligations to protect and make best use of Common Good land. It suggests Sandown is seen as the easy, convenient and cheap development option. | |
| | | Covid has caused serious national and local problems to the economy. The Council finds itself in a desperate budgetary situation. The reasons advanced for the sale – <i>“availability of additional social and affordable housing”</i> and <i>“provide resources to support and lead recovery”</i> cause serious concerns that Common Good funds or proceeds of sale of such assets are being sought to make up for short falls in public funding. This would be improper. | This is inaccurate and has been answered above (see representations 2 & 3). |
| | | The current consultation should be suspended or withdrawn. The proposal is unspecific and open ended. The case for the sale of the whole site has not been made. Alternatives have not been evaluated. The timing is inappropriate given Covid and economical constraints. | This has been answered above (see representations 2, 3, 9 & 18). |
| | | Section 75 Local Government (Scotland) Act 1973 provides for Court to consider an application by a local authority to appropriate or dispose of inalienable Common Good land. Therefore, a Court could authorise either or both. The current | The current consultation is for disposal only. When an application is submitted to the Court under section 75, it is clearly stated what is craved – disposal or appropriation. As the Council already owns the land (as statutory successor to the former Burgh) the question of transfer is not relevant. Similarly, the Council cannot sequestrate itself. However, it must be noted that the Council can appropriate or change the use of the land for which it would require Court authority. An example of this would be the suggested |

| | | |
|--|---|--|
| | <p>proposal refers to a sale (disposal). It follows that the Council is not consulting on the appropriation of the land, its sequestration or transfer to the Council. The Council cannot request, and the Court cannot authorise, any request or action by the Council to appropriate the land. It would be improper, unacceptable and objectionable for the Council itself to seek at any stage, in any way or for any purpose to appropriate the whole of or part of Sandown Common Good land.</p> | <p>development of part of the area for construction of visitor centre, café etc – this is because this is not the current use of the land therefore the Council would be appropriating it for another use.</p> |
| | <p>Since the consultation commenced, the Main issues Report has been published for consultation. It includes Sandown as preferred site even though it was not proposed like other sites under the Call For Sites exercise. Other sites were re-nominated but Sandown was not. This raises questions about the transparency of the planning process. The site is inalienable and Court consent has not been obtained.</p> <p>To be included a site has to be “effective” – available, deliverable and free from constraints. Without Court consent, the inalienable status of the land is a clear legal impediment. It means the land is not available for development until any Court consent has been obtained. Sandown is not listed as inalienable in the MIR, nor does it record the pro indiviso share claimed by the Council. These omissions are significant as the land does not form</p> | <p>Sandown was previously identified in the Council’s adopted Development Plan (Highland-wide LDP and Inner Moray Firth LDP). The Council agreed the principle of development on the site and it has also been agreed by independent Reporters. The 2013 development brief took account of input from a community participation event.</p> <p>Through the current review of the IMFLDP, the site’s suitability to be carried forward into the new plan is considered and people’s views on this have been requested through the Main Issues Report that is out for consultation.</p> <p>The reference to “free from constraints” relates to the site’s physical and environmental characteristics and constraints, and therefor suitability for development. This does not override or preclude any other issues having to be dealt with to enable delivery of the site for development. Indeed, the fact the site is in Common Good ownership is acknowledged in the Strategic Environmental Assessment for the plan although Common Good ownership of itself is not typically regarded as an insurmountable issue for the release of the site. The site’s status as Common Good land would also have been considered in the review process that led to the publication and adoption of the current Local Development Plans outlined above.</p> |

| | | | |
|--|--|--|---|
| | | <p>part of property belonging to the Council. Resolution of the outstanding and disputed claim, possibly through the courts, presents a significant constraint. As far as we can ascertain, there has been no “call for sites” document from Nairn Common Good trustees at any time during the last 20 years. It further highlights the conflict of interest. Including Sandown as a preferred development site IN the MIR in advance of agreement from beneficiaries and authority of the court without recording it as inalienable and subject to the Council claim is improper and prejudicial to the consultation and any Court proceedings.</p> | |
| | | <p>We recommend 3 changes before consent is sought for Common Good disposals:</p> <ol style="list-style-type: none"> 1. The Council has trustee responsibility under law but the decision making framework is unsatisfactory. Policies should be revised to ensure the distinction between the obligations of trustees and tasks of delivering Council objectives. Reform should deliver on the Community Empowerment Act principles for community engagement and involve community representatives from initial policy formulation to every aspect of Common Good management. | <p>Responses:</p> <ol style="list-style-type: none"> 1. The Council are not “trustees”. This is a misunderstanding caused by the use of drawing an analogy of similarity fiduciary duties. However, Common Good and trust property are different in law. There are already policies published on the Council website covering Common Good management. These are Council management policies and would not be the subject of public consultation processes. City of Inverness Area Committee is the local Committee in the same way as the Nairnshire Committee is for Nairn. The Common Good subcommittee for Inverness is made up entirely of Councillors appointed from the City Committee and is competent due to the size of Inverness fund and volume of business before the City Committee. No other Highland Common Good fund has a separate Common Good committee. The management of Common Good varies across Scotland and it is not appropriate to compare the practises of one area with another as they are all individual. 2. This has been answered above (see representations 2 & 3). 3. This has been answered above (see representations 2, 3 & immediately above). |

| | | | |
|----|---|--|--|
| | | <p>Inverness Common Good is managed by the City Committee. Other regional councils have Common Good sub committees and ongoing community liaison processes. Nairn should be the same.</p> <ol style="list-style-type: none"> 2. Discussion, debate and drawing up of the proposal to sell took place entirely behind closed doors over a period of more than a year. The community should have been involved and engaged from the outset. They have a right to full information and an opportunity to discuss and offer views on any proposal not just a one off yes/no comment. 3. Sandown serves as a case study and model – before any decision is made these changes should be made then full public appraisal of all options should happen. This would ensure value for money, better informed decisions, encourage community engagement and give the residents of the Burgh a sense of involvement in the Common Good. | |
| 69 | Nairn West & Suburban Community Council | It has been repeatedly stated that there is no decision to dispose at this time and no developer has been approached and that the consultation is to allow the Council to | This has been answered above (see representations 3, 9, 14, 38 & 50). To clarify on consulting in the absence of a known purchaser – this is the situation when property is placed on the open market for sale. Even in the event that discussions had |

| | | | |
|--|--|--|---|
| | | <p>sell at any time in the future without further permission. But Ward Business Minutes suggest the contrary:</p> <ul style="list-style-type: none"> • Extensive discussions about marketing – “time is critical now”, “ there have been several enquiries from developers about the land and now is the right time to market”. “Members content with discussions and proposed way forward”. “Peter Saggars spoke with (redacted) about their interest past and present”, “suggests passing information to Allan Maguire”. • If no disposal, there can be no court application as this necessitates benefit and best value being presented to the Court to ensure Trustees are acting in the Common Good’s best interests. • If permission to sell at any time in the future was granted under unknown terms and by unknown purchaser, it is conceivable the Council itself could buy for a fraction of what the land is worth. | <p>taken place with an interested party, the open market process means that there is no foregone conclusion and all offers are considered.</p> <p>It has been estimated that the consultation process and Court process could take well in excess of a year to complete in respect of Sandown – this could result in the loss of the best value purchaser or result in not being able to take advantage of favourable but short lived improved market conditions.</p> |
| | | <p>It is a sham to consult when no actual disposal is proposed. The decision to consult has not been taken by Committee. The information in the consultation document is inadequate as there are no</p> | <p>This has been answered above (see representations 2, 3, 5, 18, 20 & 38).</p> |

| | | | |
|--|--|---|---|
| | | <p>firm financial details which local residents need to make a decision. Covid has impacted on being able to hold public meetings and exhibitions. To consult in a pandemic, over Christmas, with a flimsy document and no discussions when no actual sale is proposed is perverse. The consultation does not fulfil the majority of the requirements of the National Standards for Community Engagement. The Council has a major conflict of interest – they are keen to get housing land as cheaply as possible and all Councillors are Trustees of the Common Good. Actions and minutes suggest the sale is a “done deal” and that the consultation is a “box ticking” exercise with no heed being taken of local opinion suggesting alternatives.</p> | |
| | | <p>Proof of bias is shown in the 2018 preliminary planning application lodged by Highland Housing Alliance later withdrawn because it was illegal as the proper process had not been gone through for inalienable Common Good land. Also, in the recent MIR where Sandown has been put forward as the only preferred option for volume housing in Nairn for the next 5 years. Househill and Balmakeith which are both good land closer to town are available, were put forward and discounted for spurious reasons. Sandown was preferred as being free from constraints. Granny Barbour’s Road was non-preferred due to being slightly</p> | <p>This has been answered above (see representations 38).</p> |

| | | | |
|--|--|--|---|
| | | detached from existing settlement edge when it is actually closer to town and for requiring a relatively high level of new infrastructure to accommodate the proposed levels of growth. This seems a disingenuous approach to major long term development. | |
| | | No cost benefit analysis has been presented. There is only one option – sale of whole site. This option is likely to bring in the lease money. It cannot be possible to ensure the asset is not disposed of for consideration less than the best that can be reasonably obtained (s74 Local Government Act1973) when only one option is presented. | This has been answered above (see representations 1, 2, 3, 5, 20 & 50). |
| | | <p>There has been no research into other options such as:</p> <ul style="list-style-type: none"> • Selling plots – this is Scottish government and Council policy and would attract a greater income than sale of same area as a whole site. • Leasing to provide long term income stream. • Selling small areas only – some parts are more valuable than others in development terms full assessment would be needed. • Community/tourist uses which must be prioritised and safeguarded. | This has been answered above (see representations 2 & 3). |

| | | | |
|--|--|---|---|
| | | <ul style="list-style-type: none"> • Use for renewable energy sites – solar or ground source – to provide income stream. | |
| | | <p>The south field has been earmarked for over 20 years as a wetland nature reserve including community building/interpretive centre, play park, picnic site, café and tourist attraction. Sports fields have also been suggested. There is a significant sum of money from the sale of Tradespark hall that could be used to erect a building for the benefit of local residents. These plans have not progressed as the Council have been more focussed on selling to a developer rather than repurposing Sandown for maximum community use and financial gain for the Common Good.</p> | <p>This has been answered above (see representations 1,, 3, 6, 8 & 9).</p> |
| | | <p>Use of an area to generate renewable energy such as solar or ground source has been suggested in the past. This is environmentally desirable and would generate an income source for other projects.</p> | <p>Sandown has been considered in the past, but it never reached the stage of formal analysis. There is no council load anywhere near the site and the grid at Nairn is severely constrained. Theoretically, if it was a suitable area, it could be considered for such use, but the benefits are best if there are buildings close by to take the generation and this is easiest if the buildings are new as there are fewer restrictions.</p> |
| | | <p>If the land is sold as proposed, all control will go to the developer. There will be a loss of control of options for recreation, leisure and tourist gateway as enshrined in the Nairn Local Plans then Local Authority Development Plans and confirmed in the 2012 Charrette. Previous experience leaves us with little confidence any developer of the Council will honour the land uses as discussed in 2012/13. This is</p> | <p>This has been answered above (see representations 2, 3, 6 & 10).</p> |

| | | |
|--|---|---|
| | <p>illustrated by the EIA of 2018 which shows proposed housing covering an area more than double that agreed at the Charrette and would not leave any meaningful wetland reserve or tourist facility.</p> <p>The proposed use of a large portion of the long designated recreational space at Sandown when there are more appropriate sites north of A96 shows the Council has little interest in what is best for the Common Good, only what can provide them with the cheapest land to develop.</p> | |
| | <p>It is Scottish government policy under Community Empowerment Act 2015 to encourage community land ownership of which Common Good is an example. Repeatedly trying to sell this valuable community resource with negligible partnership with or input from the community who have longstanding plans for the area contravenes the letter and spirit of the Act.</p> | <p>This has been answered above (see representations 2, 3, 6, 15 & 20).</p> |
| | <p>Developer contributions would have to be paid by the Common Good fund which would reduce any sale proceeds received to about £4m. It is not best value for the community to sell at this time.</p> | <p>This has been answered above (see representations 38).</p> |
| | <p>Economy is facing the worst recession in 300 years. Even before Covid, investments were on a downward trajectory. This is no time to cash in property assets. Cash and investments could lose a proportion of their value while land will provide some</p> | <p>This has been answered above (see representations 1 & 2).</p> |

| | | | |
|--|--|---|--|
| | | income and still be there when economy stabilises. What is the hurry other than the Council and developer buying at the bottom and getting a bargain at the expense of the community? | |
| | | Sandown was valued at £14m in 2006 (with a bid of £22m), £10m in 2010, £7m in 2013 and now £6-7m (minus developer contributions). Councillors have a duty to place Common Good fund interests first. This is clearly not the time to sell inalienable Common Good we have had for 430 years. Councillors are possibly individually financially responsible if Nairn Common Good loses most of its value by doing this. | This has been answered above (see representations 1, 2, 3, 9, 14 & 38). |
| | | In June 2013 the Council appropriated £344,000 of Sandown land against alleged expenses incurred during the attempted illegal sale in 2008/9. The land was inalienable and Court permission should have been sought under section 75 of 1973 Act. The value of the land was transferred to the Council general account. This was in clear breach of the Trustees fiduciary duties. This is disputed and needs resolved before the process can go further. As a result, there is no clean title to the land. The Council may be attempting to sell because they mistakenly believe they own part of the land and this is their way of claiming it. | This is inaccurate and has been answered above (see representations 2, 16 & 38). |
| | | Housing is a statutory function of the Council and not the Common Good. Any | First part of this has been answered above (see representations 3). |

| | | |
|--|--|--|
| | attempt by Councillors who are Common Good trustees to provide housing subsidised in the form of cheap or free land would be improper and shows the conflict of interest. Their duties as trustees of the Common Good and its management has precedence over their Council duties. | Regarding priority of duties – Councillors must balance all of their duties as appropriate, priorities will change depending on circumstances prevailing at the time. It is not the case that it can be expressly stated that one area of responsibility must always take precedence over everything else. |
| | Current Scottish government policy is to redevelop, renovate or purchase town centre property not develop greenfield sites on the edge of town. No allowance has been made for available and consented alternative sites for affordable housing in and around the town. Statistics for housing need are based on an inflated 2015 HNDA. Adjacent land at Delnies has had permission for 300 houses since 2008 but has not started showing there is little demand. Road and sewage infrastructure around Sandown is completely inadequate and could be another crippling charge on the Common Good. | This has been answered above (see representations 1, 6, 8, 20 & 38). Delnies is being actively pursued by a developer but is a more challenging site to deliver than Sandown. |
| | No case has been made for use of sale proceeds. Consultation document implies they would be used for regeneration of the town and Covid recovery. It is not clear what this means and whether it would be a legitimate use of funds or just a money saving opportunity for the Council. As with housing, uses such as regeneration, housing, leisure/recreation are likely to be substitutes for statutory spend or regeneration grants that Nairn is entitled to. If Common Good money is used for | This has been answered above (see representations 3, 9, 28 & 36). |

| | | | |
|----|--------------|---|--|
| | | <p>this, those grants can go to other communities which will have already received their share of funding directly from the Council.</p> | |
| | | <p>In 2012 William Gilfillan and Sandy Park promised that community council representatives would be involved in decision making but this has never happened. Despite requests, Nairn still has no neutral representatives participating in decisions. Only the 4 Councillors (who have a major conflict of interest) make the decisions mainly behind closed doors with minutes only available by FOI. Only when law demands consultation does the Council ask the opinion of Community bodies. The conflict of interest of the Councillors and lack of non-conflicted representatives in the Common Good decision making is unacceptable. Repeated attempts to have proper community appointed representatives on the Common Good management structure for Nairn have been completely rebuffed.</p> | <p>This has been answered above (see representations 2, 6, 38 & 50).</p> |
| 70 | Pamela Munro | <p>Lands are deemed as inalienable so status quo should prevail. Makes no sense to consider a sale when we are in the grip of a pandemic and the economic uncertainty that brings.</p> | <p>This has been answered above (see representations 2, 3 & 10).</p> |
| | | <p>The need for affordable housing is being met by the development at Lochloy and should not be at the expense of Common Good land. I am concerned that sale proceeds will be used to balance Council</p> | <p>This has been answered above (see representations 3, 6 & 9).</p> |

| | | | |
|----|-----------------------|---|--|
| | | budgets. Given the dire traffic flow it is easier to go to Inverness to shop than into Nairn so I do not see how increased residents will benefit Nairn. | |
| | | Traffic is already gridlocked. There should be no further development until the bypass is built. | This has been answered above (see representations 6 & 8). |
| | | We are being asked to consider nature and our environment, so it is morally wrong to dispose of green space particularly when it is home to a variety of wildlife and has benefitted residents for generations. | This has been answered above (see representations 6, 10 & 12). |
| 71 | Peter & Thérès Muskus | Selling Sandown to a single developer is crazy especially if it has dropped 70% in value. Why should one generation take profit from land that has been in public ownership for hundreds of years? Funding for Nairn will always be less than ideal & is likely to get worse not better. Be prudent, develop income from the assets. A committee of local people committed to Nairn's future should make these decisions not just Councillors, some with conflicts of interest. | This has been answered above (see representations 2, 3, 6, 10 & 20). |
| 72 | R Ross | I object to the short time for the consultation on the future of the west end of Nairn. People of Nairn must have the opportunity to discuss this in public. | This has been answered above (see representations 2, 3 & 19). |
| 73 | Ronald Bisset | Any movement regarding this would be better left until Covid-19 pandemic is over. I fail to understand why Council is even considering going ahead at this time | This has been answered above (see representations 1, 2, 3 & 9). |

| | | | |
|----|-------------------|--|---|
| | | unless they have other reasons that public are not being made aware of. | |
| 74 | Rupert Furze | If I were managing Nairn's Common Good, I would not advise a disposal at this time unless a pressing need overcame the responsibility to the people of Nairn. I would also be reluctant to apply for planning permission unless I judged the cash investment would produce a higher return in the long term than investment in land. | This has been answered above (see representations 1, 2, 5, 9, 10, 14, 30, 36, 37 & 38). |
| | | If there is a pressing need for affordable housing just for Nairn residents, their need may out way the long term investment. But only a limited area of land for that need should be disposed of and then to a charitable housing association to ensure the benefit remains in Nairn. | This has been answered above (see representations 3, 8 & 9). |
| 75 | Sam Dalziel | The land belongs to Nairn and its townfolk, not Highland Council. There are too many conflicts of interest in this proposal that must be addressed first before any clear and transparent decisions can be made. | This has been answered above (see representations 2). |
| 76 | Seonaid Armstrong | There is a need for housing in Nairn but proper infrastructure, road investment and the bypass need to be in place. | This has been answered above (see representations 6 & 8). |
| | | Other proposed sites in Nairn have not been approved due to over development and traffic issues. | This has been answered above (see representations 35). |
| | | Nairn Common Good is for the benefit of Nairn. Highland Council are committed to invest and develop Nairn Common Good | This has been answered above (see representations 2, 5, 9, 10, 14, 30, 36 & 37). |

| | | | |
|----|--------------|--|--|
| | | to give the best value for future generations – is proposing to sell of our main asset or even to hold a consultation during a pandemic achieving best value for future generations? | |
| 77 | Sheena Baker | <p>The timing of the consultation is fundamentally wrong and should be withdrawn. How the Council can think it is meeting the need under the Community Empowerment Act to properly engage with Nairn residents on the proposal during a pandemic is beyond my comprehension. Both Community Councils, local and Inverness press and social media have put considerable efforts into engaging with residents and encouraging them to respond but it is still a totally unsatisfactory state of affairs as the ability to hear and question other views has been severely limited by the lack of public meetings.</p> <p>Zoom meetings do not allow reactive conversations and it is not easy for everyone to join in. Many residents do not have computers, tablets or broadband. To my knowledge the consultation has not been on public display as the offices, library and community centre have all been closed.</p> <p>All the consultation does legally is allow the Council to state “we engaged with the Nairn public”. As far as I am concerned it is purely a tick boxing exercise. This has been Nairn Common Good land for 430 years,</p> | This has been answered above (see representations 2, 3, 9, 10, 18, 19 & 20). |

| | | | |
|--|--|---|--|
| | | surely it could have been postponed until the pandemic is behind us and the matter can be publicly debated. The rush seems even more unseemly by the Council comment that there is nothing actively being planned. | |
| | | I wrote to the Council in November 2020 regarding my belief that the Council had illegally transferred £344,000 of Sandown Lands to the Council general fund balance sheet. Sandown Lands are inalienable and to take this action legally, the Council would have had to receive Sheriff Court confirmation before acting. We are left with an illegal act that needs to be rectified by reversing actions taken in earlier years. | This is inaccurate. This correspondence has been responded to in full. There was no illegal act and no requirement for a Court application. |
| | | The Council has steadfastly maintained there is no developer waiting in the wings. This is patently incorrect. FOI's and Ward minutes show that from 2017 to date, Council officers have been engaging in ongoing correspondence with Barratts and Chaps of Aberdeen. Both are developers who have expressed an interest in acquiring the land. Either the Council officers are being economical with the truth to our 4 local Councillors or quotes made to the press have been disingenuous. If there is truth in either scenario, it is a very unsatisfactory way for the Council to be conducting affairs in relation to Common Good assets. Officers do not have any legal responsibility in | Individual developers have made preliminary enquiries in the past, as they would do with any zoned sites, but the position has been made clear that nothing can be done until a consultation has taken place. There is nothing disingenuous regarding this and this comment is completely erroneous. |

| | | | |
|--|--|---|--|
| | | relation to Common Good assets and their disposal, Trustees however do. | |
| | | If it is true that development is not being planned, then withdraw the consultation. Why have the 4 Nairn Trustees and Councillors agreed to this action which, from the minutes, has been clearly initiated and driven by 1 or 2 Council officers? This appears to be driven as a quick fix for the Council housing list. There is a statutory obligation on the Council to home people but no such obligation on Common Good land or assets. | This has been answered above (see representations 2, 3, 5, 9 & 14). The council is following the correct process in relation to any proposed sale - no decisions have been made. Officers have responded to enquires made by Members and officers instigated the consultation process following a request and discussion with Members. |
| | | If this goes ahead against the wishes of so many in Nairn, it is pie in the sky thinking to believe any developer, other than the Council or an arm of a Council housing association, would build a development of affordable homes. It is more likely, as has been the way of recent years, that a private developer would build and sell the private housing first to maximise profit then build affordable houses in the latter stages. Private developers would look to acquire the land at the lowest price which is hardly going to be a good deal for the Common Good. | The stages of what houses are to be built when can be controlled by planning conditions otherwise this has been answered above (see representations 3, 10, 16 & 24). |
| | | BID working with NW&SCC compiled a list of many first floor empty properties in and around the High Street that could easily convert to 1 or 2 bedroom flats. This appears to have been hastily sent to the bottom of the in tray of the Council Head of Development. The suggestions clearly | The Council has taken a proactive approach to renovating empty properties in Nairn when financially viable to do so. Unfortunately, many of these empty properties are not financially viable due to conversion costs or unrealistic expected values from owners. Even if all the properties were viable this would not meet the demand for housing. The delivery of new build affordable housing will supplement any housing delivered through bringing empty properties back into use. There is no agenda from council officers. |

| | | | |
|--|--|---|--|
| | | <p>did not fit his/Council ideas and timings. This suggests there is an agenda being closely followed by Council officers that the Common Good land at Sandown is the easiest fix to meet this agenda. Not good enough.</p> | |
| | | <p>I realise that there is a need to find land for development in Nairn but am incredulous at the suggestion in the new IMFLDP that only Sandown lands have been preferred out of the many other identified and proffered sites in Nairn. Househill would be an excellent site particularly now the bypass will be built. This should also be a preferred site on the new IMFLDP thus providing an alternative option.</p> | <p>This has been answered above (see representations 3, 8, & 20).</p> |
| | | <p>Moving forward – before the Council can do anything with Sandown land they must purify the title by reversing the illegal action they took with this inalienable land.</p> | <p>This is inaccurate and has been answered above (see representations 2, 20 & 38) as well as in previous correspondence.</p> |
| | | <p>If there is to be development, the best site would be the area next to the allotments on the north of A96. It is the only completely dry site and has good access to necessary services. This site properly marketed, bringing in maximum long term gain for the Common Good, could be developed in a manner allowing for the needs of both private and affordable housing to be built. It could easily accommodate a mix of Housing Association, some individual built sites and some developer site. This would only</p> | <p>Noted. This has been answered previously above where stated that no decision will be made on how the site is marketed until independent advice is received.</p> |

| | | | |
|--|--|--|--|
| | | necessitate a small portion of Common Good land being disposed of. This needs open discussion in a public forum unlike the decision formulated behind closed doors leading to SHIP proposals for 2021-2026 which only cites Sandown. | |
| | | The consultation offers no monetary figures, is totally open ended and tries to give the Council unfettered discretion to dispose of Sandown. If it were to progress it would result in Common Good land that has been part of the Royal Burgh being sold off for the equivalent of sweeties and Nairn being robbed of its long term inheritance to fix a hole in the Council's finances. | This has been answered above (see representations 2, 3, 9, 14 & 38). |
| | | There was meaningful discussion in Nairn in 2012 but now seems as if the outcomes of the Charrette have been kicked into the long grass by Council officers. Why did the Council and Trustees not start with a decision to hold meaningful engagement and discussion with Nairn? Maybe because it would not have allowed them to do what they have decided is best for Nairn. Over the years I have heard Council officers say that Nairn is the town that likes to say "no". Maybe this is because the Council keep telling Nairn what its needs are going forward rather than asking Nairn. The Council should start with communication, then maybe we can all move forward. Engaging with the town, its | The Charrette event in 2012 contributed to the preparation of the adopted Sandown Development Brief which will be taken into account when any future planning application is considered. |

| | | | |
|----|-------------|---|---|
| | | Community Councils, landowners, and interested groups like BID and NICE would allow for an acceptable route map for the agreed future development of Nairn and its Common Good assets and fund. | |
| 78 | Steven Bain | If there is no developer waiting in the wings, why hold a consultation? People's views may change in 1, 5 or 10 years. | This has been answered above (see representations 1, 2, 3 & 9). |
| | | Due to Covid, it is not possible to hold public meetings and exhibitions and zoom meetings and email are not as effective. This is the Common Good's biggest asset and needs careful consideration. | This has been answered above (see representations 2, 3 & 19). |
| | | Land is a tremendous asset so why sell off in one part? Historically, Nairn has grown in small parts with land disposed of in separate transactions. This would be sensible as land appreciates in value. | This has been answered above (see representations 3 & 9). |
| | | The economy is currently depressed so now is not the time to consider a sale. This should be revisited when the economy has recovered. | This has been answered above (see representations 2). |
| | | It is agreed the need for housing is not the function of the Common Good, but it should not be pressured into selling its biggest asset. More housing brings need for more jobs so maybe a business park or supermarket should be established on this land. | The options for land uses on this site have been considered through the preparation of various Development Plans and the Sandown Development Brief. The Development Brief identified an area to accommodate small scale community, business and commercial uses alongside any future housing. |
| | | Nairn Councillors have a conflict of interest due to their different roles so perhaps third party trustees should be | Conflict of interest comment has been answered above (see representations 2). Regarding appointment of trustees – this would change the nature of the fund as no property held subject to a trust can be Common Good. The responsibility for Common |

| | | | |
|----|---------------|---|---|
| | | appointed to have the best interests of the Common Good at its core. | Good has been conferred on Local Authorities as described in the answer to representations 2 above. |
| | | The law on developer contributions has changed – it used to be the developer that paid but now it is the seller. This would reduce any value received significantly. It is not clear what the sale proceeds would be spent on – capital projects or maintenance of existing assets. | This has been answered above (see representations 38). |
| | | Infrastructure is inadequate – drainage, roads, traffic management, schools. | This has been answered above (see representations 6). |
| | | Has the local Development Plan been taken into account – there is a long existing project on Sandown Land for community building, wetlands, café and tourist attractions. | This has been answered above (see representations 1 & 3). |
| 79 | Stewart Baird | Consultation documents the urgent need for affordable/social housing in Nairn but why should that be at the expense of Common Good land that has been in possession of Nairn for over 400 years. | The proposal to dispose is an option to consider how to realise funds which would allow for fresh investment in the remaining Common Good assets. |
| | | There has been rapid development over last 25 years on East side – but what percentage of affordable housing has been built? | Since the affordable housing policy was introduced 25% of new housing has been affordable. |
| | | It will be just housing – no shops, no link to A96, no green space. | This has been answered above (see representations 1, 3 & 6). |
| | | Figure of £7m must be undervalued for the land. Bypass would make the site desirable in the future so could achieve higher value. Bypass will also open up other sites which must be looked at first. Developers can quickly change planning | This has been answered above (see representations 1, 3, 8, 9 & 24). |

| | | | |
|----|-------------------|---|---|
| | | applications – last time it was changed to propose 900 houses. | |
| | | Any development of Common Good land should provide an income for the town. Once it's gone, its gone. Covid has highlighted the need for more green space. We need to provide more sports pitches and recreational grounds. | This has been answered above (see representations 2, 3, 6, 30, 36 & 37). |
| 80 | Tracy King | I assume that, due to the pandemic, the Council is taking advantage of not being able to do a full and proper consultation. Council offices, library and community centre are all closed and not everyone is on social media to there will be a vast number of people who are unaware this is in the pipeline. This is underhand and dishonest. | This has been answered above (see representations 2 & 3). |
| | | If there are no developers interested, why is there the need to consult now? Is this true or, again, underhand and dishonest? I believe Council is only exploring this because they are already looking forward to the proceeds of sale which, I am sure, would not see light of day in Nairn. | This has been answered above (see representations 1, 2, 3, 9 & 14). |
| 81 | Valerie Springett | There should be no consultation during lockdown and the pandemic. Sandown is known to be controversial and the community need the opportunity to see and hear all possible options for the future of the land. It is inappropriate and unfair to spring the consultation on us. The consultation document is lacking in information to enable informed decision | This has been answered above (see representations 1, 2, 3, 9 & 14). See comments re ownership above (see representations 2). |

| | | | |
|--|--|---|--|
| | | making by the community who have owned the land for over 400 years. | |
| | | It is concerning that Trustees of Common Good (all councillors) make all Common Good decisions and no Community Councils or locals have any say. | This has been answered above (see representations 2, 3, 7, 10 & 38). Community Councils and community bodies are statutory consultees in this process. The responsibility for Common Good has been conferred on Local Authorities as described in the answer to representations 2 above. |
| | | The consultation document states that developers would have to abide by the terms of the Charrette and development plan. There is no way a developer would agree to this let alone adhere to keeping the wetlands. The wetlands should remain as a Common Good asset and include the land up to the edge of the Altonburn Core path on north side of A96. It is abundant with wildlife and would make a new area for walking which is a much needed resource now. | The Council will wish to see how any environmental assets and qualities are integrated in the design and layout of the development. |
| | | The new hall funded from the sale of the old Tradespark Hall for flats should go ahead and the land kept by the Common Good and provide some income. It was to be multipurpose including gateway visitor centre, educational area, café and community centre within the wetland area. | It has not been possible to confirm the position of the new hall. Further enquiry will be undertaken to establish the current position. |
| | | It is not the time to sell and won't be for foreseeable future. A valuable asset like land should not be sold until after the recession and pandemic are over and land prices go up. The Common Good would have to pay developer contributions which would reduce any proceeds to under £5m. | This has been answered above (see representations 1, 2, 3, 9, 14 & 38). |

| | | | |
|----|---------------|---|--|
| | | It is not logical to propose to sell at this time. | |
| | | There are no good reasons to sell and no cost benefits or figures given to give confidence about a sale. There are other options that are likely to be more profitable for the Common Good and benefit the people of Nairn – selling off small areas for building as and when required, selling individual plots of land. This would fit in with community using and developing the wetlands. No consideration appears to have been given to other areas for development in Nairn such as Balmakeith and Househill. | This has been answered above (see representations 1, 2, 3, 9, 20 & 38). |
| 82 | Walter Morris | The land is Nairn's Common Good land and nothing to do with the Council. | This has been answered above (see representations 2). |
| | | No Highland Councillor can meet their obligation as a trustee of the Royal Burgh's Common Good and their financial and other responsibilities as Highland Councillors. We should use Nairn as a model to resolve and address this. There must be clarity on this before any decisions can be made. | This has been answered above (see representations 2). The responsibility for Common Good has been conferred on Local Authorities as described in the answer to representations 2 above. |
| | | Sale of the land would lead to building on it sooner rather than later. Nairn does not have the infrastructure to support more housing. There should be a moratorium on larger scale developments until after the bypass is built. | This has been answered above (see representations 6 & 8). |
| 83 | William Young | My representation supports the conclusion that the Council has stolen part | This is inaccurate and has been answered above (see representations 2, 16, 20 & 38). |

| | | | |
|--|--|---|--|
| | | of the Common Good and the proposal is a vehicle to let them get away with it. If there is no developer then the consultation and any court application is hypothetical and premature and should be dismissed. | |
| | | I believe the evidence supports the conclusion that there is an undisclosed disposal in prospect which could materialise before any court hearing. The Council minute of 27 June 2013 records a decision to “transfer a pro rata share of the land equivalent to the remaining debt”. This related to Sandown and the last attempted sale. I dispute it is a true debt as it was incurred in pursuing matters which are no part of the administration of a Common Good Fund. Highland Council accounts for year to 31 March 2014 records a disposal of investment properties of £345,000. It also notes that during the year land at Sandown to the value of £0.344m was transferred to Highland Council. | This has been answered above (see representations 2, 16, 20 & 38). |
| | | Report to Environment, Development and Infrastructure Committee on 8 November 2017 lists Sandown land as part of Strategic Housing Development. It is included again in a report to the same Committee on 4 November 2020. In 2018 Highland Housing Association filed an Environmental Impact Assessment in respect of an area of Sandown. | HHA position has been answered above (see representations 38). Remainder is information rather than specific issue. |

| | | | |
|--|--|---|--|
| | | We are about to hit a double dip recession with the effects of Covid 19 unidentifiable. Accepted wisdom would be to move out of cash into more stable assets like land. So, a decision of trustees to move out of land into another asset, particularly cash, takes some explanation. | This has been answered above (see representations 2, 5, 9, 10, 14, 36 & 37). |
| | | The absence of any financial justification is, I believe, evidence that the better financial management of the Common Good has had no part in the decision parameters that could be used to justify the prospective sale that could overcome the realisation of the misappropriated asset at Sandown. | As stated above – there has been no misappropriation at Sandown. |
| | | There is no evidence that the Trustees have considered any of the factors, issues or implications of the representations of Nairn West and Suburban Community Council. | Any issues raised have received full responses. Elected Members are custodians of Common Good not Trustees. |
| | | I am left with evidence that supports the conclusion that the principle motive for proposing a sale at Sandown is to facilitate the implementation of the SHIP reports in the mistaken belief that the Council owns a proportionate share of the land. Sandown Land was bestowed by the Royal Charter and is inalienable. Any transfer requires court authority under s75(2) Local Government (Scotland) Act 1973. No such authorisation was obtained in relation to the 2013 transfer. | This is inaccurate and has been answered above (see representations 2, 16, 20 & 38). |

| | | | |
|----|---------------|---|--|
| | | The current application under s75(2) for authority to dispose is to simply dupe the Court into disapplying the statutory protection so that the trustees who are also Councillors are free to advance their political ambition to provide affordable housing without further recourse to the Court. | There is no current application before the Court because no decision has yet been made on the outcome of the consultation. Only in the event of a decision being made to go ahead with the proposal will an application be made whereupon the Court will consider fully all the facts. |
| | | No part of the administration of a Common Good is to provide housing and it should not be a decision parameter in maximising the benefit to the Common Good in either impairing value or timing of realisation. | This has been answered above (see representations 3). |
| | | I am concerned that, if granted, the blanket exemption from statutory protection may have the retrospective effect of authorising the purported transfer in 2013/14. There are concerns of other illegal transfers which will be subject to separate process that could also be covered by retrospective exemption. | There have been no other allegations of illegal transfers. Any authority would be sought in the specific terms of an application and would not have a retrospective effect. Otherwise the comments relating to the "purported transfer" have been answered above, |
| | | The 2013 transfer was in breach of the trustees fiduciary duties. They have now discovered it was unlawful and that they do not have title to the part of the land they want to develop so it is necessary to sell the whole site. | This is inaccurate and has been answered above (see representations 2, 15, 16, 20, 22 & 38). |
| 84 | Yvonne Cotter | The sale of Sandown lands at this time is a gross misuse of Council position as custodians of Nairn common good. Currently the land is undervalued, and a | This has been answered above (see representations 1, 2, 3, 9, 14 & 18). |

| | | | |
|--|--|--|---|
| | | sale would not be in the best interests of the fund. | |
| | | As some of the Councillors sit on more than one Committee with oversight of the fund in their remit, a completely independent committee should be set up to oversee Nairn's Common Good land, property and finances. | This has been answered above (see representations 2, 6, 38 & 50). |

3. Next steps

- Consider responses to the above questions/issues raised.
- Once responses have been considered and approved, they can be included in a document for publication on the Council website and notifying to those who have responded within the consultation process.
- Nairnshire Area Committee Members will be asked to consider the outcome following the consultation process and make a recommendation to the full Council. This is due to the fact that, as the value of the proposed disposal is greater than 10% of the Fund value, the decision on the proposal falls to full Council.

4. Recommendation options for decision by full Council

- Agree that the proposal for disposal of Sandown Lands, Nairn should go ahead subject to Sheriff Court approval.
- Amend the proposal – any significant amendments will trigger a fresh consultation process.
- Decide that the proposal should not go ahead.

5. Additional information

Sandown Lands derive title from the Burgh Charter of King James VI dated 16 October 1589 and has been considered by the inhabitants to be community land for time immemorial. As a result, it raises a question of inalienability and therefore an application to the Sheriff Court for permission to dispose is required.

The Community Empowerment consultation and Court application are separate to any process and consultation under planning legislation.

Sara Murdoch
Common Good Fund Officer
09.06.2021

CONSULTATION on:-

**proposal to sell (for development) common good property known as
Sandown Lands at Sandown Road, Nairn**

What is proposed?

A sale of 38 hectares of Common Good property lying either side of the A96 at the western boundary of Nairn. The extent of property included in the proposal is shown in the plans and images below and is described in the Highland Council Common Good Asset Register for Nairn as follows:

Inverness Road, IV12 5NT.

UPRN: 130111934.

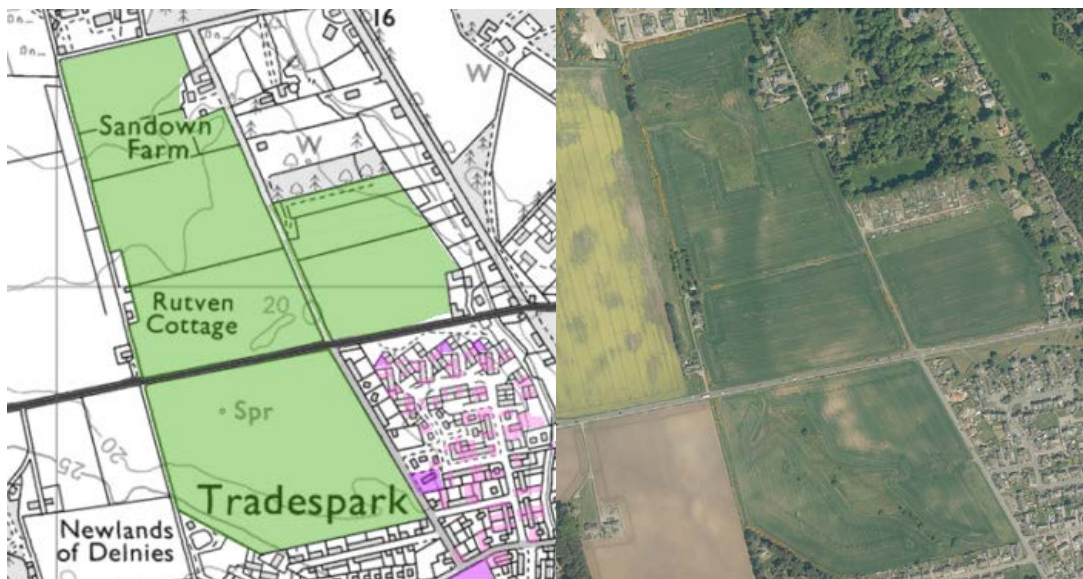
The lands run either side of the A96.

On the left/north side (heading towards Nairn) the lands are bordered by road to Ruthven, A96, Sandown Farm Lane & properties to the rear of Tradespark Road.

On the right/south side the lands are bordered by A96, Sandown Road, Rear of properties on Wyvis Road & Moss-side Road.

The allotment gardens together with a parcel of land for extension of the gardens will be excluded from the proposal.

The current value of the land is estimated to be around £6m - £7m (value at October 2020). This figure has been estimated after taking into account possible variables including the potential for increased developer contributions.

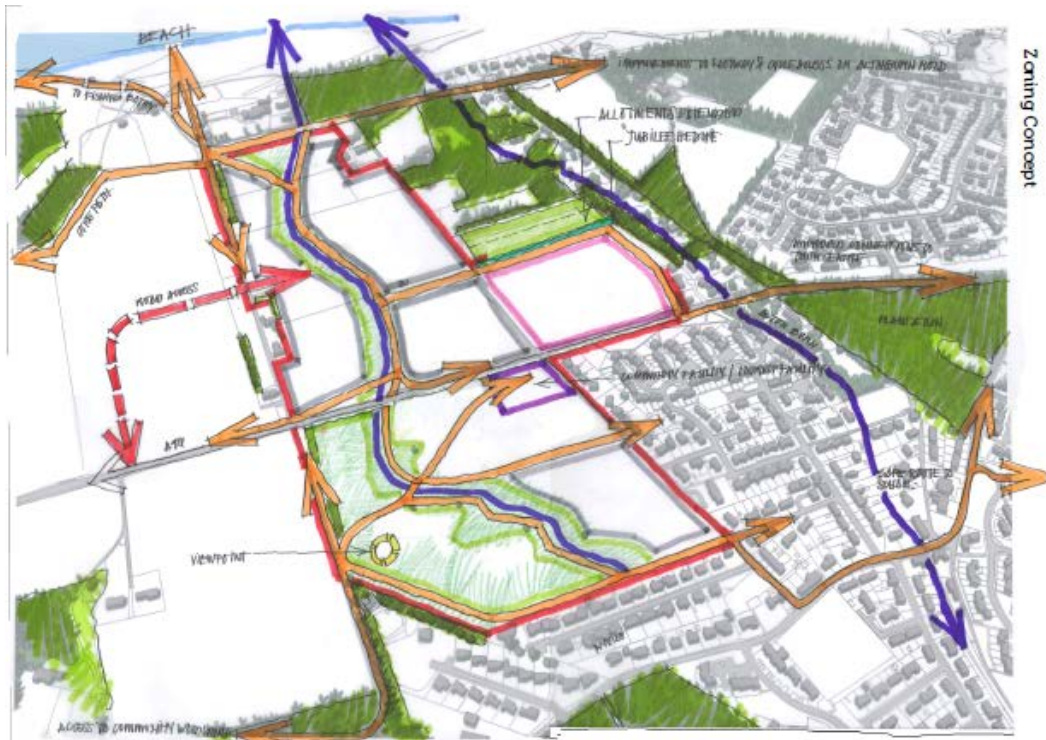


Background to the proposal

In 2013 the Council adopted the Sandown Development Brief which represented the results of an intensive Charette conducted from 30 January 2012 to 2 February 2012. The Charette was open to

all and attended by members of the Community and other interested parties. The Brief incorporated the areas of consensus but also reflected those areas where agreement had not been reached during the Charette.

The brief covered site layout, building design, open area planning, housing density, affordable housing, employment-generating uses, phasing, flood risk, access provisions, infrastructure and delivery of development. In doing so, it considered the nature and type of land and the appropriate use of the area. A zoning plan was developed – see below:



The Brief suggested the proposed uses for the zoned areas as being:

- Grey areas represented housing (and live/work unit) compartments
- Pink and white areas represented undecided future use
- Purple area potentially to include a mixture of wetlands interpretative centre, café, small retail spaces, restaurant, licensed premises, community meeting space, small business spaces, tertiary education, children's play space
- Green area to comprise wetlands, public open space and extended allotment provision.

This proposal seeks to sell the property for purposes identified in the Sandown Development Brief.

Timing of the consultation

The Council has not received any offer for the land, nor has it put the site on the market. However, the Council considers it is appropriate to undertake the consultation at this stage for the following reasons:

- **Investment in and development of Nairn and Nairn Common Good assets.**
The Council is the custodian of the Common Good funds and, as such, has duties and responsibilities regarding its ongoing management and maintenance. In managing the Common Good Fund, the Council has the responsibility for ensuring best value for the fund

and its assets. Strategic planning is also important to protect and maintain the fund for future generations. Currently, the land contained in this proposal returns a nominal rent. The most recent valuation of the land indicates this is estimated to be worth £6m-£7m. By realising the asset, it would provide significant funds for fresh investment in the town as well as providing for the potential development of existing Common Good assets.

- **There is an identified need for more housing in Nairn, both private and affordable.** The Council analysis of housing need across the Highlands for 2019/20 indicates that the greatest pressure on social housing is in Nairn. This proposal would ensure that additional social and affordable housing would be available to address some of that need for people of the Nairn community. The provision of more private accommodation would be of benefit to residents of the town wishing to move and also encourage people to relocate to Nairn which would benefit the economy of the town.
- **Volatility of the market and property values.** Whilst land values have been static over recent years, it is impossible to predict what will happen in the future and what the ongoing effect of Covid-19 will be. By commencing the consultation at this stage, and should support for the proposal be achieved, this would allow the Council to move quickly to secure the best possible value for the benefit of Nairn Common Good and the residents of the former Burgh.
- **Ongoing implications of Covid-19.** The impacts of Covid-19 are expected to be ongoing for some time and strategic planning is needed to assist Nairn in recovery and rejuvenation. The Common Good Fund would wish to be in the best possible position to help with this process and by realising this asset, resources would be provided to support and lead recovery for the town.

Process

Section 104 of the Community Empowerment (Scotland) Act 2015 requires the Council to consult local communities when considering disposing or changing the use of Common Good assets. Therefore, the consultation is seeking views on the proposal in order to inform the decision making process.

The consultation relates to the proposed disposal of the land. It is not a consultation on the merits of any detailed layout or housing/other property design. These matters will be addressed through the formal planning process.

Consultation

We are keen to hear the views of the community on the proposal to sell Sandown lands for development as outlined above in the Sandown development brief previously agreed.

Key questions:

- What are your views on the proposed disposal of this piece of Common Good land?
- Do you have any views on potential benefits of the proposal?
- Do you have any issues or concerns arising from the proposal?
- Do you have any additional comments?

The Council will take all representations into account in reaching a decision.

Depending on the representations received the possible outcomes are:

1. The proposal goes ahead subject to consent by the Sheriff Court.
2. The proposal is amended significantly, and a fresh consultation takes place.
3. The proposal does not go ahead.

Representations

Consultation closing date – **12 February 2021**

Please submit written representations to:-

Email: commongood@highland.gov.uk

Post: Sara Murdoch, Highland Council, Headquarters, Glenurquhart Road, Inverness, IV3 5NX.

Additional information

The Highland Council have a statutory obligation to seek court consent before disposing of Common Good land which may be 'inalienable'.

In this context 'inalienable' refers to Common Good property that falls into at least one of the following categories: -

- The Title Deed of the property dedicates it to a public purpose, or
- The Council has dedicated it to a public purpose, or
- The property has been used for public purposes for many years (time immemorial) without interference by the Council

In this case the title for the property derived from the Royal Charter of James VI dated 16 October 1589. It is considered that this property may be inalienable and therefore, the proposed sale cannot be concluded until Sheriff Court consent has been obtained. If after this consultation, the proposal progresses to a court application the public will have a further opportunity to make representations. A statutory advertisement will be placed in the Nairnshire Telegraph to inform the local public that the court process has been commenced.