

REPORT TO: East Lothian Council

MEETING DATE: 27 October 2020

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Review of Governance of Common Good – Update

1 PURPOSE

- 1.1 To provide an update to Council in connection with the Common Good Governance Review, and to set out the next steps in the process.

2 RECOMMENDATIONS

It is recommended that the Council:

- 2.1 Notes the progress regarding the Common Good Governance Review; and
- 2.2 Approves the proposed consultation in the terms set out at Section 3.4 of this report.

3 BACKGROUND

- 3.1 At its meeting on 25 June 2019, the Council agreed to allocate funding of £40,000 from the Common Good Funds to allow a full review of the assets held by the Council within the Common Good to be carried out. This included ascertaining the assets and assessing any associated liabilities/costs to maintain these assets. It should be noted that, despite the principle of Common Good being in existence since 1491, there remains no formal definition of Common Good property, although there is significant guidance within case law. Therefore, in deciding whether an asset forms part of the Common Good portfolio, the Council must consider each case on its own merits.
- 3.2 The Council's Legal Team appointed external solicitors (Lindsays WS) to assist in the review of heritable Common Good assets (i.e. land and

buildings). The work undertaken by Lindsays included reviewing the legal titles to all the land and buildings which the Council's Estates and Finance Team had provisionally identified as forming part of the Common Good portfolio. This review was also extended to include all public parks and other additional properties which had not previously been identified as assets forming part of the Common Good portfolio. The result of this work, together with the Council's Legal Team's review, has identified the properties listed within Appendix 1 as being heritable properties associated with the Common Good.

- 3.3 In addition to the above-mentioned exercise being carried out, further work is also being undertaken to ascertain if there are any moveable assets which may be held by the Council as Common Good property (for example, paintings). To date, no such moveable assets have been identified.
- 3.4 Following on from the review carried out by Lindsays, the next step will be to conduct a full public consultation, as is required in terms of section 102 of the Community Empowerment (Scotland) Act 2015, which requires that the Council firstly identifies its Common Good assets and then seeks consultation with the community prior to formally publishing its Common Good register. The purpose of the consultation is to allow the public an opportunity to comment on the currently identified Common Good assets and submit suggestions relating to other assets which they reasonably believe may be Common Good, and to allow further scrutiny of any such assets.
- 3.5 During the review, the Legal Team has worked closely with Estates and Engineering Services. Condition surveys were instructed for all buildings identified as part of the Common Good portfolio and required works prioritised into four categories, as detailed in Appendix 2. An appropriate maintenance programme will be prepared which will be reviewed in line with the current use of the property and sustainability of the particular Common Good Fund, together with the approved current budgets for each Common Good Fund.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications arising from this report.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

- 6.1 Financial – it is not anticipated that there will be any direct financial consequences. However, should any additional Common Good assets be identified as a result of the consultation, then further consideration as regards these assets will be required.
- 6.2 Personnel - none
- 6.3 Other – the consultation is not anticipated to have an impact on resources. However, due to current restrictions imposed through COVID-19, the consultation shall, as far as possible, be conducted virtually.

7 BACKGROUND PAPERS

- 7.1 Report to Council on 25 June 2019 – Review of the Governance of Common Good
- 7.2 Report to Council on 27 August 2019 – Review of the Governance of Common Good: Update

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Appendix 1

ASSET REF	NAME	NO	STREET	TOWN	POST CODE	TYPE	NT REF
0193	Sub Station Site in Winterfield Park		Winterfield, North Road	Dunbar		Land	NT6679/1
1002	Former Show Ground		Lamer Street	Dunbar		Public Open Space	NT6878/14, /15, /29 & /34
1110	Musselburgh Racecourse		Linkfield Road	Musselburgh	EH217RG	Land	NT3573/1
1157	Land at Goosegreen (Territorial Army Site)		Goose Green Place	Musselburgh		Land	NT3573/1
1187	Ash Lagoons		Linkfield Road	Musselburgh		Lagoons	NT3573/1, NT3573/4, NT3573/6, NT3573/5, NT3573/7 and NT3573/8
1198	Car Park Balcarres Road Musselburgh		Balcarres Road	Musselburgh		Car Park	NT3473/6
1406	Corn Exchange	85	High Street	Dunbar	EH42 1ER	Hall	NT6778/30
1409	Musselburgh Town Hall	63	High Street	Musselburgh	EH21 7BZ	Hall	NT3472/179
1434	Office	2	Quality Street	North Berwick	EH39 4HW	Office	NT5585/42
1502	Fisherrow Links		Mountjoy Terrace	Musselburgh	EH21 6JR	Park	NT3473/13
1503	Neilson Park		2 Road	Haddington	EH41 4DB	Park	NT5173/52
1504	Park, East Road, North Berwick	27A	East Road	North Berwick	EH39 4LD	Park	no title
1512	Countess Park		Countess Crescent	Dunbar		Park	NT6778/4
1527	St. Margarets Clubhouse		Winterfield	Dunbar	EH42 1XE	Clubhouse	NT6679/1
1530	Car Park		Marine Parade	North Berwick		Car Park	no title
1535	Public Toilets		Mountjoy Terrace	Musselburgh	EH21 6JH	Toilets	no title
1540	Haddington Town House		High Street	Haddington	EH413HA	Miscellaneous	no titles
1550	Town House Dunbar		High Street	Dunbar	EH42 1ER	Miscellaneous	NT6778/27 & /47
1552	Brunton Hall and Theatre		Ladywell Way	Musselburgh	EH21 6AF	Miscellaneous	
1670	The Haugh Park			Musselburgh		Park	NT3372/72 NT3372/73
1682	Old Golf Course		Linkfield Road	Musselburgh		Golf Course	NT3573/1
1722	North Berwick War Memorial		Quality Street	North Berwick		Memorial	NT5585/42
1750	Fisherrow Harbour			Musselburgh	EH21 6DQ	Harbour	no title
1823	Snack Bar Site within Car Park at Fisherrow Harbour			Musselburgh	EH21 6DG	Land	no title
1843	The Mall Clock		Mall Avenue	Musselburgh		Miscellaneous	clock structure only
1846	Bank of the River Esk		River Esk	Musselburgh		Public Open Space	NT3573/1
1881	Musselburgh Community Facility		Balcarres Road	Musselburgh		Land - part only	NT3573/1
1884	East and West Haughs			Haddington		Public Open Space	no titles
1891	Imperial Car Park (part)		Quality Street	North Berwick		Car Park	NT5585/42
1001	Land		Lamer Court	Dunbar		Public Open Space	No Titles, Burgh Charter
	The Lodge 2			North Berwick			5585/54
	King George V Park 2			Cockenzie			4075/63
	Goose Green			Gullane			4882/21
	Polson Park			Tranent			3972/3
	Lewisvale Park			Musselburgh			3472/175
	West Links			North Berwick			5385/3
	West Pans			Musselburgh			3673/7
	Whitesands			Barns Ness			7277/1
	Stoneyhill Community Centre			Musselburgh			3372/5
	30 High Street			East Linton			5977/27
	Lime Grove (part only)			North Berwick		Open Space	

ASSET NO.	ASSET NAME	PRIORITY GRADES				SUB TOTAL
		LEVEL 1: URGENT WORK	LEVEL 2: ESSENTIAL WORK	LEVEL 3: DESIRABLE WORK	LEVEL 4: LONG TERM WORK	
		REQUIRED WITHIN 1 YEAR	REQUIRED WITHIN 2 YEARS	REQUIRED WITHIN 3-5 YEARS	REQUIRED OUTWITH THE 5 YEAR PERIOD	
1406	Dunbar Corn Exchange	£212,385.60	£241,080.00	£85,848.00	£0.00	£539,313.60
1527	Winterfield Golf Club	£123,774.00	£218,324.40	£5,103.84	£0.00	£347,202.24
1540	Haddington Town House	£371,380.80	£283,416.00	£88,200.00	£0.00	£742,996.80
1409 & 1132 & 1149	Musselburgh Old Town Hall & 63D & 63A	£14,876.40	£60,552.24	£302,691.82	£0.00	£378,120.46
1550 & 1551	Dunbar Town House & Office 85 High Street, Dunbar	£33,516.00	£5,880.00	£24,754.80	£23,520.00	£87,670.80
1552	Brunton Hall & Theatre	£154,776.89	£169,344.00	£497,448.00	£1,379,448.00	£2,201,016.89
1105 & 1171 & 1106 & 1107 & 1108 & 1204	145-157 High Street, Musselburgh*	£19,662.72	£52,710.67	£51,214.80	£0.00	£123,588.19
1123	140 North High Street, Musselburgh*	£3,645.60	£8,220.24	£8,937.60	£0.00	£20,803.44
1147 & 1135	118 & 118A New Street, Musselburgh*	£13,394.64	£11,407.20	£31,752.00	£0.00	£56,553.84
1142	137 High Street, Musselburgh*	£1,528.80	£18,710.16	£1,176.00	£0.00	£21,414.96
1823	Fisherrow Harbour Public Toilets, Musselburgh	£0.00	£0.00	£1,411.20	£0.00	£1,411.20
1622	Winterfield Tennis Pavilion	£5,527.20	£19,756.80	£15,582.00	£0.00	£40,866.00
1434	2 Quality Street, North Berwick	£1,940.40	£14,194.32	£39,572.40	£0.00	£55,707.12
1502 & 1535	Fisherrow Links Pavilion & Mountjoy Terr Public Toilets, Musselburgh	£5,480.16	£13,171.20	£43,629.60	£0.00	£62,280.96
1750	Fisherrow Harbour	£940.80	£2,469.60	£1,176.00	£0.00	£4,586.40
1126 & 1168	47 Bridge Street, Musselburgh*	£5,056.80	£34,874.28	£29,576.40	£0.00	£69,507.48
1643 & 1239 & 1219	Council Chambers & 1-3 High Street, North Berwick	£5,056.80	£13,265.28	£19,662.72	£0.00	£37,984.80
1881	Musselburgh Community Facility (Exc. 1110 Musselburgh Race Course)	£15,229.20	£2,234.40	£27,643.06	£0.00	£45,106.66
1139	Musselburgh Inveresk Cafe, Musselburgh	£940.80	£1,528.80	£1,176.00	£0.00	£3,645.60
	TOTAL:	£989,113.61	£1,171,139.59	£1,276,556.23	£1,402,968.00	£4,839,777.43

*not Common Good but part of Common Good Investment Portfolio