**INVERGORDON COMMON GOOD**

**CONSULTATION ON PROPOSAL TO DISPOSE, BY SALE, OF THE BUST OF SIR JOHN GORDON BY EDMÉ BOUCHARDON; AN ASSET OF**

**INVERGORDON COMMON GOOD FUND**

**REPRESENTATIONS AND RESPONSES**

**EMAIL & POSTAL RESPONSES**

Email/postal responses are based on the questions asked in the consultation document which are as follows:-

* Do you support the proposal to sell the Bouchardon bust?
* If yes, do you have any further comments?
* If no, please give reasons and comment what you think should be done with the bust instead?
* Do you have any other relevant comments not covered by the above questions?

1 person responded by email and by online form answering no in each case with additional comments (refs EP7 & OL55) – responses have been reproduced verbatim in each case but the “no” answer has only been counted once.

|  |  |  |
| --- | --- | --- |
| **REPRESENTATIONS RECEIVED AND RESPONSES** | | |
| **ID ref no** (prefix with EP for email/post) | **Representation received reproduced verbatim** | **Council’s responses** |
| EP1 | As a resident of Invergordon I was very interested to learn about Bouchardon's Bust of Sir John Gordon.  My personal view is as the bust cannot be displayed in Invergordon due to issues of security, it should be sold and the proceeds donated to the Common Good Fund for Invergordon. | Thank you for your comments which have been noted within the consultation process. |
| EP2 | I think this bust should be sold and that the money should be returned to the town of Invergordon’s Common Good Fund. Invergordon does not get very much funding in comparison to Alness and Tain. The town is looking very rundown and extra funding would hopefully be put to improving it, especially as it has so many visitors from the Cruise ships. | Thank you for your comments which have been noted within the consultation process. |
| EP3 |  | Thank you for your comments which have been noted within the consultation process.  (the copy correspondence is of historical relevance but does not respond directly to the consultation. As a result, it is not reproduced here) |
| EP4 | **Saltburn and Westwood Community Council (SWCC)’s response to Highland Council’s consultation on the proposal to dispose, by sale, of the bust of Sir John Gordon by Esme Bouchardon**  **Brief history of the bust of Sir John Gordon by Adme Bouchardon**  The marble bust of Sir John Gordon was made by Adme Bouchardon in 1728. The bust survived a fire at Invergordon Castle in the 19th century and was bought by Invergordon Town Council at auction in Kindeace for £5:00 in 1930.  It is understood that the intention was to display the bust in Invergordon Town Hall, unfortunately it was never displayed as originally intended and was misplaced, later being discovered propping open a shed door on an industrial estate in Balintore in 1998.  **This response is based on the following beliefs:**  • The bust was purchased on behalf of the people of Invergordon due to the town being named after Sir John Gordon and forms part of the Common Good Fund.  • Given the above, the people of Invergordon have the right to be fully consulted on all options for the future of the bust. From the Highland Council Documents, highlighted in the consultation document as relevant background reading, the sale of the bust has been the only option considered. It is the view of SWCC that the reasons for this, outlined in the document, are based on false reasoning or information which is not true  • To allow the people of Invergordon to make a robust, fully informed decision, they require each option to be clearly outlined, giving detailed information on the benefits to them and the town of Invergordon  **SWCC challenges the consultation process on the following grounds:**   1. lack of accessibility of all the relevant information 2. readability of the information 3. lack of a clear, robust decision making process 4. all options for the future of the bust are not included   We will now detail the reasoning for each of these.  **1. Lack of accessibility of all the relevant information**  Community Empowerment (Scotland) Act Feb 2017 - The Highland Council, on its Website’s Community Empowerment page, states under Common Good Property, that one of the key elements of the Act is *‘provisions have introduced duties to increase transparency about common good assets and improve community involvement in their identification, disposal and use of them’*  **SWCC is of the opinion that the presentation of the information, the terminology in the consultation document, and the additional expectation that readers will also read minutes of meetings means that the information is not easily accessible.**  **SWCC sees no evidence of transparency in the consultation on the disposal of the bust of Sir John Gordon.**  **2. Readability of the information**  The Scottish Survey of Adult Literacies 2009 highlights that *‘one person in 28 faces serious challenges in their literacies practices’* and *‘people who live in the 15% most deprived areas in Scotland tend to have lower literacy scores than those who live in the rest of Scotland’*.  Following the survey, The Scottish Government on mygov.scot resources - Readability, states;  *‘A lot of what the Scottish and UK governments publish, either on line or in print, is too complex for at least half of our readers. This is mirrored across agencies, services and the general public sector’ ‘we know this complexity confuses the public’ ‘Close working across government is needed to further improve content. We need to make sure that any language produced for the general public has been written in an accessible way’*  **SWCC sees no evidence that an attempt has been made to ensure the consultation document is readable by the residents of Invergordon.**  **3. Lack of a clear, robust decision making process**  The reports and minutes of the Easter Ross Area Committee Meetings from 17th February 2022 - 30th October 2023 do not demonstrate a robust decision making process  **Extracts from Item 11- Invergordon Common Good, Easter Ross Area Committee meeting held on 17th February 2022**  *2 ‘Members are asked to consider and agree one of the following two options:*  *• Option 1: To commence a statutory consultation to sell the Bouchardon Bust to repair the Town Hall. Said sale to be conditional on a robust business case OR*  *• Option 2: To recommend to Highland Council to dispose of Invergordon Town Hall by sale. This follows the concluded consultation regarding disposal and would include a requirement for approval from the Sheriff Court as it is an inalienable asset.*  **Extracts from Minutes of Easter Ross Area Committee Meeting held on 17th February 2022**  *‘It was generally considered preferable to sell the hall, even if only for a nominal sum, to enable the building to be preserved for the future, the council having no budget to do anything other than mothball it. Assurance was sought that the Town Hall belonged to the Common Good Fund and not Highland Council. It was suggested that it would be preferable for any proceeds from the sale of the Bust to be used to form a fund, such as a common good fund, to which local groups could apply for the benefit of the local community.’*  *‘The Committee:* ***AGREED****:*  *a. to commence work on an options appraisal and outline business case for a use of any seed cornmoney returned from the sale of the Bouchardon Bust, ie setting up of an Invergordon common good fund which would generate substantial income for the community to use for local projects for the future; and*  *b. TO RECOMMEND to Highland Council to dispose of Invergordon Town Hall by sale, after considerable years of attempting to bring it into viable use to provide sufficient income for its continued use.’*  **Extracts from Item 7 – ERA Invergordon CGF Q1, Easter Ross Area Committee meeting held on 5th September 2022**  *‘****3.4 Risk Implications****: As noted previously to this committee, before considering sale of the Bouchardon Bust it is critical that the the wider implications of any such sale are considered. If sale is likely to be considered unfavourably this could result in some significant heritage funders not supporting funding to the Highland Council as a whole. This could have significant implications for the wider Highland Council, and this will be required to be considered as part of any options appraisal on the potential for sale.’*  *‘5.1 Invergordon Town Hall*  *In February 2022 Members agreed to recommend to Highland Council that the Town Hall be disposed of by sale following a second disposal consultation under the Community Empowerment Act. This was agreed and following that Sherriff Court approval for such a sale was granted on 31May 2022. The property will therefore be marketed shortly.’*  *‘5.2 ‘Initial discussions took place with a representative of Sotheby’s to obtain specialist advice and information given the nature of the asset involved. Detailed information will be compiled into a full report to be brought before a future meeting of Easter Ross Area Committee.’*  **Extracts from Minutes of Easter Ross Area Committee held on 5th September 2022**  ***7. Invergordon Common Good Fund’***  *• ‘information was being sought on the value of the Bust in order to put together an option appraisal which would be brought to committee for consideration. Should any proposal to sell come forward in the future, this would be subjected to a full public consultation under the Community Empowerment Act. Assurance was provided that Invergordon Community Council would be kept fully up to date’*  **Extracts from Item 7 - Invergordon CG Q2 of the Easter Ross Area Committee meeting held on 8th November 2022**  *5.2 Bouchardon Bust Work is ongoing to explore the issues associated with any potential sale of the Bust. Detailed information will be compiled into a full report to be brought before a future meeting of Easter Ross Area Committee’*  **Extracts from the minutes of the Easter Ross Area Committee Meeting held on 23rd January 2022**  *‘Members queried the downward revaluation of the Bouchardon Bust and an explanation would be sought from Finance outwith the meeting. A brief summary was provided of the comprehensive statutory process, including public consultation, that would be required to sell the Bust should members decide to initiate this.’*  **Extracts from minutes of Easter Ross Area Committee meeting held on 7th August 2023**  **7. Invergordon Common Good Fund**  *• In relation to the Bouchardon Bust, the options appraisal had not yet been progressed due to staff vacancies. The history of the discovery and subsequent considerations about what to do with the Bust were summarised’*  **Extract from minutes of Eater Ross Area Committee meeting held on 30th October 2023**  ***’10. Invergordon Common Good Fund - the bust of Sir John Gordon by Esme Bouchardon.***  ***Following a summary of the report, the following issues were raised:***    *• there had been speculation online about what would happen if the bust was sold but it was clarified that a decision was only being sought at this stage on whether to proceed with a consultation on whether to sell it;*  *• if the bust were to be displayed locally, the costs of insurance and security to display it would be prohibitive;*  *• in response to comments, a summary was provided of the statutory consultation process. There was no legal requirement for a public meeting but a public awareness raising session, with a defined agenda, could be beneficial. The permitted uses of Common Good Fund assets and who was permitted to benefit from them was outlined, as was the lengthy legal process that would be undertaken if a sale was the preferred option from the consultation, and that any investment decisions on the proceeds would be taken in line with legal procedure, at the appropriate time;*  *• the importance of clear communication with regard to the consultation was emphasised;*  *• Members were keen to hear the public’s view on the possible sale of the bust;*  *• assurance was provided that the bust was being stored in a safe and appropriate location; and*  *• Members thanked all involved in the process over the previous 25 years and asked that they be involved in the preparation of the consultation document.*  *The Committee:-*  *•* ***NOTED*** *the update on the work undertaken to explore the potential of selling the Bouchardon Bust;*  *•* ***NOTED*** *the assessment of the various sale options and the advice from Sotheby’s that a sale by private arrangement might be most beneficial in financial terms; and*  *• in light of this information,* ***AGREED*** *to commence a Community Empowerment consultation to inform the decision making in respect of a proposal to sell the Bouchardon bust.*  **After reading all available documents and information SWCC’s understanding of the process is as follows:**  At the start of the process, in February 2022 members were asked to agree to sell the Bouchardon Bust to repair Invergordon Town Hall or to dispose of the Town Hall. No other options for the future of the Bust were put forward and fully explored. **(Although, at later stages reasons why other options were not viable were put forward. SWCC believes that these reasons are based on false reasoning or information which is not true. This will be discussed in more detail later.)** The members considered it preferable to sell the Bust **and** to sell the Town Hall.  As the monies raised would not be needed to repair the Town Hall, it was agreed the members would consider options for the use of the monies raised from the sale of the Bust ie the setting up of an Invergordon Common Good Fund which would generate substantial income for the community to use for local projects. It is important to note that, at this stage, the proposal was to set up a new Common Good Fund which would not necessarily have the same restrictions placed on it by Highland Council as the existing fund.  However, later in the document this appears to have change to the monies being placed in the current fund, which does have restrictions placed on it. It is important that this is clarified and the implication of the restrictions clearly highlighted as part of the consultation process.  In September 2022, discussions took place with a representative of Sotheby’s **(SWCC has major concerns about this which will discussed in more detail later**) to obtain specialist advice and information which was to be compiled into a full report. Highland Council states that there was an assessment of the various sales options and advise from Sothebys was that a sale by private arrangement might be the most beneficial in financial terms.  Highland Council stated that any proposal to sell would be subjected to a full consultation under the Community Empowerment Act. They also stated that a public awareness raising session could be beneficial and the importance of clear communication with regard to the consultation was emphasised.  **SWCC is of the opinion that the consultation process and resulting consultation document do not meet the expectations of the Act nor of Highland Council itself.**  Highland Council has acknowledged that there has been speculation online as to what would happen when he bust was sold and they clarified that the decision was only being sought at this stage on whether to proceed to a consultation on whether to sell and that investment decisions on the proceeds would be taken at the appropriate time.  **SWCC is of the opinion that for the people of Invergordon to make a fully informed decision regarding the future of the Bust they require, at least, an estimate of the potential sums of money available and what type of projects they could be used for.**  The only advice Highland Council has sought is from Sothebys, whose primary purpose is to sell Art. Regardless of the type of sale, Sothebys will gain financially, therefore Sothebys has a vested interest in the Bust being sold. The advice they have given on other options cannot be seen as impartial.  SWCC has sought independent advice from a British art historian and former art dealer who lives in Scotland. As a dealer they specialised in Old Masters, with a particular interest in Anthony van Dyck. Therefore, whilst they are extremely knowledgable about the art work both in Scotland and worldwide, they do not have a vested interest in the sale of the Bouchardon Bust, which makes they advice they have given robust and impartial in nature.  The advice is as follows;  • The bust could be on public display. The point about insurance is misguided because it ignores options like government indemnity cover. The security risk is overestimated as marble busts are not thieves usual targets.  • There is no evidence that the market may ‘crash’. The fact that the bust was loaned to both the Louvre and Getty Museum in 2016, testifies to its value in the art world. The previous record price for a similar bust was around £2.5m in 2012. It’s not impossible the market has risen since then.  • There is no requirement for the council to pay auction costs in excess of 10%, the 40% figure quoted by Highland Council is wildly incorrect. It should be possible to negotiate a zero commission deal with Sotheby’s for a sale by auction as well as a private sale. It should be essential that both Sotheby’s and Highland Council confirm that no **introductory commission** is to be paid to anyone for arranging the sale.  • Stating that the replica is a ‘pro’ for a private sale is misleading, as such replicas are not that expensive therefore, the offer of one should not be an inducement for a private sale.  • A private sale could set a potentially quite dangerous precedent of someone being able to buy valuable artworks from councils directly, without testing the open market.  • There are plenty of examples of councils selling artworks which then leads to a negative view from funders in the future. **It is completely inadequate** for Highland Council to rely solely on Sothebys view as they have a clear conflict of interest. Since there is a risk that selling the bust will impact negatively on museums, within the Highland Council area, future bids for funding or receiving donations, the council should seek museum sector/ other professional views.  • Whilst both Highland Council committee papers and the consultation document claim the bust can be sold without causing problems as it was never ‘accessioned’. It is far from clear this is the case as the bust was bought by the council for public display. All options for the bust are not included.  Art historian Caroline McCaffrey-Howarth has said that it is likely to be the only Bouchardon sculpture in Scotland and that rules around the export of significant works of art might prevent its overseas dispersal.  **SWCC have no confidence that the advice provided by Sotheby’s is impartial.**  **4. All options for the future of the bust are not included**  SWCC are of the opinion that the people of Invergordon, as rightful owners of the bust of Sir John Gordon by Adme Bouchardon, have the right to be fully consulted on all options for the future of the bust. Each option should be fully explored and presented for consultation along with a financial appraisal. The potential uses of any money raised should be detailed, including into a new Common Good Fund with criteria in line with Scottish Government recommendations. It is just as important that areas the money cannot be used for are clearly highlighted.  Options to be explored should include:  • The bust is returned to the people of Invergordon, to be displayed in the town as a significant cultural attraction  • The bust is leased to Inverness Museum and Art Gallery  • The bust is leased to a national gallery eg the National Gallery for Scotland  • The bust is sold to a national gallery eg the National Gallery of Scotland  • The bust is sold by auction which means, if the buyer lives abroad, it will be lost to the country  • The bust is sold privately which means, if the buyer lives abroad, it will be lost to the country  • There may be other options not listed here.  **FINAL CONCLUSION**  **SWCC formally challenges this current consultation and request that a further, fully informed consultation allowing for proper consideration of all the options available is conducted prior to any decision being made.**  Donna Smith  Chair, Saltburn & Westwood Community Council  21 February 2024 | The Community Empowerment consultation is the format by which members of the community can participate in the decision making process. Whilst the consultation document outlines the Council’s current proposal, any consideration of a decision must have regard to all representations received.  **1. Lack of accessibility of all the relevant information**  This consultation is presented in the same format and style to all previous Community Empowerment consultations. Additionally in respect of this consultation the availability of an online form for responses was provided which has received a positive response. Other responses have been by email and post. It has been validly and correctly conducted.  **2. Readability of the information**  Past consultations have, on occasion, received requests for hard copy documents or to raise questions for clarification before responding and Council officers have replied speedily to ensure the appropriate information is received as requested.  No such request has been made within this consultation but had it been made; it would have been responded to speedily and in appropriate terms.  **3. Lack of a clear, robust decision making process**  Invergordon Town Hall is not within this consultation. A decision to sell the Town Hall has been made following 2 consultations and Sheriff Court approval has been received. Whilst the Town Hall has been marketed, any steps to take a sale forward have been paused to allow for a community group to, again, have the opportunity to develop a business case to take over the building.  *“It is important to note that, at this stage, the proposal was to set up a new Common Good Fund which would not necessarily have* *the same restrictions placed on it by Highland Council as the existing fund.” –* This is a misunderstanding. Currently Invergordon does not have the level of available income reserves in a Common Good fund that would make having a grants budget viable. There is no suggestion of setting up a **new** Common Good fund – that is not legally possible.  Please note the consultation document clearly states –“ *the bust is a Common Good asset and therefore the proceeds from any sale would be a capital receipt belonging to the Invergordon Common Good Fund.” Further clarifying in the same paragraph – “This would offer the potential for investment that would generate an ongoing income for Invergordon Common Good fund which, in turn, would be used for the benefit of the Invergordon community.”*  The Highland Council has had a professional relationship with Sotheby’s for approximately 40 years and they continue to provide expert advice to the Council in connection with required insurance valuations of the numerous art works owned by the Council. In addition they have a large team of Sculpture experts working within the fine art world.  As a result the Council sought Sotheby’s expert and trusted advice in connection with the business case and options appraisal work following Area Committee recommendation in February 2022. Sotheby’s advice was given in the clear knowledge that no decision to sell had been made nor could be made without the required public consultation and subsequent Court approval.  With regard to this matter, Sotheby’s are acting on the Council’s (ICGF) behalf and their provision of advice has been on the basis of the Council’s best interests.  In consideration of representations received, it remains open to Members to instruct a second opinion be sought for such advice.  General comments on SWCC expert views   * Louvre and the Getty. However both cases were by arrangement with those institutions and they bore the full financial implications. It is understood that the GIS scheme would not apply to the Council wishing to display the bust in one of its own institutions. In that case the cost would fall to Invergordon Common Good fund which has insufficient funds to provide the cover. * The recent unsolicited offer received by Sotheby’s is in excess of £2.5m which is more than the record price achieved in 2012 and not far short of that attained in 2023 for a bust by Canova. This is all detailed in the consultation document. * The figures mentioned in the report include possible figures for advertising, storage etc in addition to actual auction costs. Sotheby’s have reviewed their fee structure which will come into force from May 2024. Details can be found on their website online. However in respect of the unsolicited offer received, Sotheby’s have confirmed that they will waive any sale fees in respect of the Council. * The Council considers that the acquisition of a high quality replica should be essential in the event of a sale proceeding regardless of whether this is by private or public sale. The difference between the 2 options is that, in respect of a private sale, it may be possible to negotiate that the potential buyer funds the replica in addition to the sale price. Whereas, if it were to be sold by public auction, the Council would be providing the replica from the sale proceeds received.   In respect of the unsolicited offer received, it is confirmed that the interested party would pay for the provision of the replica.  Sotheby’s have recommended a company that use cutting edge 3D technology to create a replica. They regularly work with major museums to produce facsimiles for display. The cost of the replica will depend on the quality of the material used to create it. The Council’s intention as advised by Sotheby’s is that it should be recreated in marble as this is the best quality and will be as close to the original as it is possible to be. The cost of such a replica is likely to be in excess of £50,000. However price can fluctuate depending on material costs, transportation etc.   * The pros and cons of public versus private sale are fully outlined in the report to Easter Ross Area Committee in October 2023. Link [Easter Ross Area Committee | The Highland Council](https://www.highland.gov.uk/meetings/meeting/4871/easter_ross_area_committee) Any sale would be on its own merits and no precedent would be set. * This comment is noted. * The bust is not recorded as a Highland Council accessioned item within Council records. Advice has been taken from High Life Highland who manage the Council’s museums’ collections. There was no specific collecting policies for Inverness Museum in 1930s and this is likely to be the same for other parts of the Highlands. When the bust was acquired by Invergordon Town Council minutes record that the purpose of the acquisition was because Sir John Gordon was *“said to be the founder of Invergordon”.*   At a later meeting it is noted that *“The Council agreed to have the Sir John Gordon bust placed in the Town Hall, the position to be pointed out”.* There is no indication the steps have been subsequently taken to accession the bust into any of the Council collections.   * Comment on rules regarding export of art works is referred to in the consultation document – known as the Waverley Criteria.   **4. All options for the future of the bust are not included**  Common Good property is owned by the Council, title having been legally vested following the abolition of the Burghs in 1975. Therefore, the Bust is owned by the Council. In making any decision regarding the future of the bust, the Council must have regard to any representations received during the consultation period.  As stated in both the consultation document and the report before Easter Ross Area Committee referred to above, precise plans for the use of any funds received cannot be made at this stage. In the event Council approves the proposal to sell, there is then the requirement to seek Court approval and thereafter, the Waverley Criteria process to be complied with. What might be economically recommended currently may not be appropriate when all the required processes have been completed.  Any funds received from the sale must be received as a capital receipt into the existing Invergordon Common Good fund and can only be used to fund capital projects or generate revenue which may be applied for community purposes. The consultation document refers to the Common Good Policy which is publicly available online for more information.  Invergordon Common Good does not have the funds to insure the display of the bust in Invergordon. When items are loaned to museums/galleries for display, the costs associated for packing, transporting, protecting and insuring the item are understandably high. As a result of this and the fact museums tend to be public organisations with limited funds, it is usual that no rental would be paid.  Museums tend to rotate their collections therefore, much of what they own spends a significant time in storage.  Whilst the Council is consulting on the proposal to sell, all representations received will be considered within the decision making process. A second consultation is not justified. |
| EP5 | Dear Sara,  I am now writing to you as Chair of Invergordon Development Trust to say that our board fully endorses the response from SWCC and would like our response to be the same.  Hopefully if you can log that as a separate response, that would be great but if you would prefer/require me to send an amended version so that it can be considered as a separate response please let me know.  Kind regards,  Donna.  Chair  Invergordon Development Trust | As this representation repeats that contained at EP4, please see the full response to that representation. |
| EP6 | As a resident of Invergordon I am against selling the bust. Invergordon has very few assets and we should keep them in the community— that goes for the townhouse as well.  I feel there should be consultation with the Minister of Culture, as well as other departments that could offer alternatives to selling, and these should be explored extensively before any decision is made. This is too big and too valuable an asset to be left to the council alone.  One idea is to put it on loan to the National Museum and proceeds from that could go to the common good.  Another is to to put it on display in Invergordon for the benefit of tourists , especially the cruise ship passengers, with an entry fee to defray costs and possibly provide some income. Help could be obtained from the UK government with regard to safeguarding and insurance.  I beg the Highland Council to take all the time necessary to investigate all avenues and all sources of potential help that would enable the community of Invergordon to retain this important part of its heritage and history. What would future generations say if we sold their inheritance for a short term monetary gain?  Where there is a will there is a way. I sincerely hope the Highland Council will find the will and the way. | Common Good property is property legally owned by the Council. In making any decision regarding a proposal to dispose or change toe use of such property, the Council must have regard to any representations received within the consultation process.  The Government Indemnity Insurance scheme would not apply to the Council wishing to display the bust in one of its own institutions and Invergordon Common Good does not have the funds to insure the display of the bust in Invergordon.  When items are loaned to museums/galleries for display, the costs associated for packing, transporting, protecting and insuring the item are understandably high and, as a result, it is usual that no rental would be paid. Museums are on likely to seek to borrow an artifact if they a running a particular display of a certain category of items. Otherwise their collections tend to be rotated meaning much of what they own spends a significant amount of time in storage.  Whilst the Council is consulting on the proposal to sell, all representations received will be considered within the decision making process. |
| EP7 – see OL55 - same person so combined & counted as 1 response. | Hi Sarah  I am writing this letter in response to the consultation for the proposed disposal of the Buchardon Bust.  As I understand it there is a group within the Invergordon Community Council looking into the Bust remaining an Invergordon asset, being used to create revenue from the growing numbers of tourist visiting the town.  To Dispose of it without this group being given the chance to work up a plan would be outrageous. The bust has been unseen by the community for decades so I see no problem in postponing any sale until any avenues for revenue have been explored fully by the interested parties.  Revenue from the sale of Common good assets also has strict spending restrictions which needs to be fully explained to the local community. Online surveys are only accessible to those with internet access and is leaving out key members of our community who would likely have more to add on this matter.  If disposal is decided on. How is the best price achieved if a buyer has already been found? Lots more questions to ask in my opinion. To rush this would be a mistake.  It is unlikely that such a valuable item will reduce in value so let's make sure the best outcome is achieved for the people of Invergordon.  I look forward to the results of this consultation. | Whilst representations have been received commenting on the proposal, no specific approach has been received as suggested by a community group.  The consultation document, report before Easter Ross Area Committee in October 2023 and the Common Good Policy all provide detailed information on how capital receipts can be used.  This is the first time an online response form has been used in a full Common Good consultation. In addition email and postal responses could also be submitted. Whilst all have been utilised, the online form has proved the most popular.  The expert advice of the world renowned sculpture team at Sotheby’s is important in considering what may or may not be considered the best price for such an artifact. With regard to this matter, Sotheby’s are acting on the Council’s (ICGF) behalf and their provision of advice has been on the basis of the Council’s best interests. |
| EP8 | To who it may concern,  I as a resident of Invergordon do not wish the John Gordon Bust to be sold. I feel the community have not been given enough information to make a informed  decision. I have not seen any posters advertising this consultation. Not everyone has social media and I feel the elderly residents in the town have no way of knowing about this. On your consultation information you have stated the bust can not be insured so can not be displayed. This is incorrect the Scottish Government  have a indemnity scheme to insure artifacts.  I feel that more than 1 valuation has to be sought as Sotherbys have a vested interest in selling the Bust as they will receive a hefty commission. I do not feel this valuation by Sotherbys is impartial.  No other option has been considered other than selling the Bust.  Invergordon is a very busy port with cruise liners docking here between April and September. Over 100,000 visitors came to Invergordon during last season (2023). I think a visitor centre with the Bust as the central artifact would be able to generate an income and the town would retain the Bust.  I feel that the consultation should be extended and I believe the Community Council should be consulted, all options should be put before the towns residents so they can make a informed decision.  I feel that we do not know enough information around The Common Good Fund and the rules and regulations of how the monies can be spent and who holds the purse strings. | It is not the case that the bust cannot be displayed – on 2 occasions it has formed part of exhibitions at the Louvre and the Getty Institute. . However both cases were by arrangement with those institutions and they bore the financial implications.  The Government Indemnity Insurance scheme applies to museums/galleries seeking to borrow artifacts for display and would not apply to the Council wishing to display the bust in one of its own institutions. In that case the cost would fall to Invergordon Common Good fund which has insufficient funds to provide the cover.  The Council has a longstanding professional relationship with Sotheby’s (approx. 40 years). They have a renowned team of sculpture experts. The Council sought their expert advice as part of developing the options appraisal and business case. The fact this work was ongoing was in the public domain which resulted in wide press and media interest. Sotheby’s subsequently received an unsolicited approach asking them to put forward an offer to the Council for consideration. They did not take any proactive steps to seek out the interested party. With regard to this matter, Sotheby’s are acting on the Council’s (ICGF) behalf and their advice is provided on the basis of what is considered to be in the Council’s best interests. However, they are a commercial institution the same as any other auction house and any fees received as part of the auction process would apply in every case.  The consultation document, report before Easter Ross Area Committee in October 2023 and the Common Good Policy all provide detailed information on how capital receipts can be used. |
| EP9 | I think the community need more information with regards to the sale of the bust. They need to know exactly how much money that Invergordon in reality would receive from the sale of the bust and what they could hope to spend it on along with a realistic idea of the monies being spent on invergordon. They also need to know the alternatives. | Thank you for your comments which have been noted within the consultation process. |
| EP10 | **Invergordon Community Council (ICC) response to Highland Council’s consultation on the proposal to dispose, by sale, the bust of Sir John Gordon by Edme Bouchardon.**  Regarding the history of the bust, it was made by Edme Bouchardon in 1728. It was commissioned by Sir John Gordon, thought to be the founder of Invergordon.  The ICC completely supports and agrees with all the comments made by our neighbours, Saltburn and Westwood Community Council namely:   1. The bust was purchased on behalf of the people of Invergordon due to the town being named after Sir John Gordon and forms part of the Invergordon Common Good Fund. 2. The community of Invergordon have the right to be fully consulted on all options relating to the future of the bust. From the documents presented by the Highland Council, as highlighted in the consultation document as relevant background reading, it seems the sale of the bust has been the only option considered. Decisions have been based on inaccuracies and information that is not true. 3. To allow the people of Invergordon to make a robust and fully informed decision, they require each and all options to be clearly outlined, giving detailed information on the benefits to them and Invergordon.   ICC challenges the consultation process on the following grounds:   1. Lack of accessibility of all relevant information. The Highland Council had failed to respond adequately to several Freedom of Information requests referring the ICC to the appeal process not leaving enough time to consider the information requested. 2. Information has not been clearly presented. The terminology used in the consultation document and the expectation that readers will be able to easily find the relevant minutes of meetings would indicate that there has been no attempt to present any information contained in the consultation document in an easy to read and/or understandable manner.   3. There appears to be a distinct lack of a robust decision-making process.   1. All options for the future of the bust are not included.   Having watched the recordings of the Area Committee meetings where the future of the bust was discussed, we were dismayed to hear that one of our elected members when asked if there should be a public consultation replied that there would be nothing to be gained by holding such a meeting as it would be taken over by “Nay Sayers”.  ICC would respond that accurate information is not available to the public to allow them easy access to all and any relevant information to allow for informed decisions to be made. We do not consider that a full and robust consultation process has been carried out.  As noted in the minutes of the Easter Ross Area Committee meeting held on 30 October 2023 emphasis was placed on the importance of clear communication about the consultation process – this has not happened. Again, ICC would reiterate that we do not consider that full consultation under the Community Empowerment (Scotland) Act 2015 has happened. In fact, Highland Council had stated that any proposal to sell the bust would be subjected to a full consultation process under the Community Empowerment (Scotland) Act 2015. They also stated that a public awareness raising session could be beneficial and the importance of clear communication with regard to the consultation was emphasised. ICC can see no evidence of this and would refer again to one members comment stating ”nothing would be gained by holding such a meeting as it would be taken over by “Nay Sayers”.  ICC is of the opinion that the consultation process and resulting consultation document do not meet the expectations of the Act nor of Highland Council.  The ICC does not agree with statements regarding the display of the bust. To imply that the cost implications to insure the bust prevents the bust being on display are wholly inaccurate. A government insurance indemnity scheme exists that allows privately owned items to be on public display.  Again, we refer to comments made during a meeting of the Easter Ross Area Committee where one member stated that she did not care how long the process to sell the bust takes, 1 year, 2 years or more. The ICC therefore requests that the Town be given that time and opportunity to see what income can be generated from displaying the bust. The Port of Cromarty Firth /Cruise Scotland indicated that 100,000 cruise ship passengers alone visited Invergordon High Street last season. Numbers are set to increase year on year. No account has been taken of non-cruise or NC500 visitors to the area.    The ICC believes there is an opportunity for the Town to generate an income from the bust that can benefit the Common Good Fund and allow the Town to potentially retain the bust for future generations if a decision not to sell is taken.  Highland Council committee papers and the consultation documents state that the bust can be sold without issue as it was never “accessioned”. ICC believes this is not the case as the bust was originally purchased by the Old Town Council for public display.  ICC are also aware that specific rules around the export of significant works of art might prevent any overseas sale as identified by Sotheby’s.  Commission and a replica bust does not the original equal!  Sotheby’s had not been impartial in the advice given to Highland Council, given their client is the potential buyer.  ICC is of the opinion is that the people of Invergordon are the rightful owners of the bust and as such have a right to be consulted on all options regarding the future of the bust. Each option should be fully explored and properly presented to the community of Invergordon, including any financial appraisals.    Details on potential uses of any monies raised should be detailed – it is equally important that areas the money cannot be used for are also clearly highlighted to prevent public confusion and quell any misguidance on how any monies raised could be spent.    Options to be explored should include   1. The bust is returned to the people of Invergordon for display in the town as a significant local and national cultural attraction. 2. Lease options should be considered. Potentially the National Gallery of Scotland. 3. The bust is sold by auction. 4. The bust is sold privately which could result in the bust being lost to the country if it goes abroad. 5. There may be other options that have not been listed here.   Finally, the ICC challenges the current consultation and requests that a further, fully advertised and informed consultation allowing for proper consideration of all the options available is conducted prior to any decision being made. Information needs to be freely available and easily accessible to allow people to make a fully informed decision and allows them to fully understand the implications of the decision they are making. | The report to the Easter Ross Area Committee on 30 October 2023 which was linked in the consultation document provided full information about this matter. The Community Empowerment consultation is the appropriate forum for the Community to make representations. In reaching any decision, the Council must have regard to the representations received as well as what is considered to be in the best interests of Invergordon Common Good fund.  Comments on ICC challenges   1. The Freedom of Information process is separate to the Common Good consultation process.  The Freedom of Information legislation allows an applicant to request that the Council reviews its FOI response within 40 working days of that response being received.  The applicants would have been informed of that right in the response they received. 2. All reports and documents referred to were accessible by the links provided. The use of this option was to avoid the consultation document itself becoming too lengthy and difficult to digest. By using links it allowed the relevant reports to be read at the appropriate time in the consultation document. 3. This consultation is part of the information gathering process that will be used to inform the decision making. No formal decision about the future of the bust has yet been made. 4. This is noted but not accepted. The report before Area Committee on 30 October details issues that relate to other options as follows:  * The bust cannot be displayed locally due to security and insurance issues – Invergordon Common Good cannot afford to insure. The government indemnity scheme covers borrowing accredited museums. * No request has been made to borrow for display. The Louvre and Getty requests related to specific Bouchardon exhibitions. * As display is not a current option, all that remains is retaining it in secure storage which achieves little by way of benefit for Invergordon Common Good. * Donation to a national museum achieves no financial benefit for Invergordon Common Good. * Potential sale to a national museum will be triggered by the Waverley Criteria as referred to in the report.   Comments on the consultation process are noted however, the Council maintains that the consultation has been validly conducted. Reference to individual Members comments are outwith the ambit of the consultation.  The Government Indemnity Scheme covers accredited museums wishing to borrow artifacts for display in accordance with a stated policy. It would not cover the Council seeking to put the bust on display in a Council establishment.  The request regarding considering possibilities for income generation will be referred for Members to consider within the decision making. The issue of costs for display and security would still be relevant in connection with this.  The bust is not recorded as a Highland Council accessioned item within Council records. Advice has been taken from High Life Highland who manage the Council’s museums’ collections. There was no specific collecting policies for Inverness Museum in 1930s and this is likely to be the same for other parts of the Highlands. When the bust was acquired by Invergordon Town Council minutes record that the purpose of the acquisition was because Sir John Gordon was *“said to be the founder of Invergordon”.*  At a later meeting it is noted that *“The Council agreed to have the Sir John Gordon bust placed in the Town Hall, the position to be pointed out”.* There is no indication the steps have been subsequently taken to accession the bust into any of the Council collections.  The Waverley Criteria which cover overseas sale is referred to in both the Area Committee report and the consultation. Should the Council and the Court approve disposal, the Waverley Criteria is likely to be triggered.  Whilst a replica is not the same as the original, the quality of the replica being proposed is such that only an expert could distinguish it from the original.  The bust was purchased by the Town Council of Invergordon. It is classed as Common Good for the reasons outlined in the Committee report and the consultation document. All property held by the Councils at the time of both local government reorganisations (1975 & 1996) was legally vested into the ownership of the succeeding Council format with special provisions in respect of Common Good (and other specific types of Council property) that it should be managed and accounted for separately to other Council funds.  The current consultation is the legal format for consulting the community.  Both the report before Area Committee on 30 October 2023 and the consultation document detail the position regarding any funds received as far as it is possible to do so at the present time. The consultation and decision in respect of that process is the first step in a lengthy process. In the event that it is approved, a Court application would need to be made which, if successful, would lead onto the Waverley Criteria process. These have timescales outwith the Council control. All of this must happen before the Council could receive any sale proceeds. It is impossible to predict economic situation which may occur in the future for investment.  The Common Good Fund Policy was also linked from the consultation document. This is publicly available to view on the Council’s website and provides more detail in respect of the financial position for Common Good funds both income and capital.  Comments on options suggested   1. The required insurance and security costs which would need to be met by Invergordon Common Good fund make this unattainable. 2. When museums borrow they agree to pay all associated costs – insurance, transport etc. Museums are often publicly funded with limited funds and the payment of the associated costs would be accepted in lieu of rent. This is what happened in the cases of the Louvre and the Getty. 3. This option has been covered in detail in the Committee Report. 4. This has also been covered in the Committee Report.   The Council considers that the issues raised within this representation have been covered within the consultation document and the reports linked in that document. |
| EP11 | **Response to Public Consultation on Bouchardon/Gordon Bust 14/3/2024)**  I believe the bust should **not be sold** at this time for the following reasons:   1. No full and proper public consultation has been carried out. There is confusion in the Town as to how this money can be spent and what it can be spent on. People have been led to believe £2.5 m is going to be available to the town and this is not the case. This money can not be used to repair roads, build schools etc. This money can be spent on capital projects only. Full consultation via the presentation of all pertinent documentation and an explanation of how the Common Good Fund works has not been available. Any such consultation should have been done via a public meeting or series of public meetings. Information hidden in the depths of the Highland council Website does not a consultation make! The consultation appears to have been almost “underhand”, due to lack of information and proper consultation with the people of Invergordon. It is weighted heavily in favour of the Highland Council to go ahead with a sale. The consultation document – should you be able to find it directs people to further background information that can be found on-line - you are assuming that everyone is able to access this on-line information. 2. There is no easily accessible information on which to make a fully informed decision and what the possible outcomes and benefit of a sale might be. Scrutiny of the Highland Council website does not provide access to this information either. 3. I do not consider that all possible options have been considered. To say that insurance costs preclude the bust from being displayed are false. Government indemnity schemes exist to cover the insurance on such items to allow for them to be on public display. Given the number of visitors to the area via Cruise, NC500 and other visitors there is an opportunity for the bust to generate an income for the Common Good Fund whilst also retaining ownership. This option has not been explored and should be. There may be other options also that should be considered. Sell or keep hidden away in storage are not the only options available! 4. Invergordon already has a Common Good Fund – although currently dormant. No new Common Good Fund should be set up. Th current fund has rules that it operates under. Any new fund could be subject to more relaxed rules allowing access to monies not available under the rules of the current fund. 5. I question Sotheby’s involvement. Having identified a buyer during what was an appraisal process - Is it really impartial? Surely there is a conflict of interest here. There is probably a financial benefit for Sotheby’s should a sale to their identified buyer go ahead. 6. The sale of the bust fits all categories of the Waverley Criteria. The bust is very closely connected to the town of Invergordon and our local area with Sir John Godon thought to be the founder of the town. It is an important piece of artwork – originally bought because of the subject but now because of the artist. To offer a replica of the bust that could be displayed is not acceptable and would appear to be a “sweetener” to encourage a sale in the hope that the estimated value of £250,000 for a replica blinds the community to the fact that they would be giving up a £2.5 million original. It is worth bearing in mind also that any sale to an overseas buyer could be stopped given the local and national importance of this piece. The 300 year anniversary of the bust will be in 2028 – that pre-dates the Highland Clearances! 7. I note from the consultation document under the section headed “Recent Offer” and I *quote “ As work on the options appraisal and business case was ongoing,* ***discussions took place between Council officers and Sotheby’s representatives…”*** I would like to know that when a Freedom of Information request was made via Invergordon Community Council for all and any correspondence relating to the Gordon/Bouchardon bust including that between Council elected members, Council Officers, Council employees and Sotheby’s this information was not provided. There is obviously correspondence of some sort available that has not been provided under this request. To keep deferring the request up the “ladder” until the consultation deadline has passed is unacceptable and could indicate an unwillingness to share appropriate information to allow an informed decision. 8. Having watched recent recordings of the area committee meetings where agenda items have included the Common Good Fund and the Bouchardon bust. An elected member is on record as saying she doesn’t care how long the process to sell takes 1 – 2 years. I believe the community should be given this time to see if an income can be generated from the bust. I was dismayed to find that a significant part of one meeting where Common Good Assets were discussed was missing. The recording was not re-started following a comfort break. It is understood that a significant chunk of the discussion is missing from that recording.   All information available should be easily and readily available to the people of Invergordon. Any confusion regarding the use of any funds generated need to be clarified.  Highland Council should have been more visible during this consultation process making themselves accessible to the people of Invergordon. I believe a further full, open and honest consultation with the people of Invergordon is warranted. It is nothing more than the town deserves given the importance of the decision you are asking us to take.  At a recent open meeting arranged by Invergordon Community Council, Councillor Maxine Smith kindly attended to provide information regarding the Consultation. She took notes and supported a request for a second consultation to include a leaflet drop to all households within Invergordon that would contain information to allow people to make an informed decision. She agreed to take this to the next Area Committee Meeting.  To conclude I would confirm my decision is to **NOT SELL** the Bouchardon bust at this time. | 1. The consultation has been validly conducted in accordance with statute and the guidance. Full information has been supplied via links to detailed documentation for ease of access. No information was hidden as suggested.   The consultation document and supporting documentation clarifies how the money may be spent with the October committee report explaining why specific proposals cannot be developed at this stage. This is referred to in responses above.  Public meetings are not a statutory requirement however all representations must be made in writing. The Council offered various formats for this purpose – post, email and online form. All were used with the online form being the most popular.  In making any decision in respect of this matter, the Council must have regard to the representations received.   1. The consultation document states that capital receipts can only be used to fund capital expenditure which *“would offer the potential for investment that would generate an ongoing income for Invergordon Common Good fund which, in turn, would be used for the benefit of the Invergordon community”.* 2. The Government Indemnity Insurance scheme has been covered in responses above. Any accredited museum seeking to utilise such a scheme would have to satisfy necessary conditions on security and display conditions. 3. There is no suggestion about setting up a new Common Good fund. Any capital receipt from the sale if approved would be received into the existing Invergordon Common Good fund. This would be administered and managed in accordance with Common Good statutory provisions and Council governance. 4. Sotheby’s are acting on the Council’s behalf in providing expert advice. The Council has had a professional relationship with Sotheby’s for approximately 40 years. The offer that has been received was unsolicited. It should be noted that the possibility of the sale of the bust received widespread press attention prior to the offer being received. 5. The Waverley Criteria is covered fully in the consultation document and the October committee report. In the event of Council and Court approval for the proposal to sell, the Waverley Criteria would be triggered. The suggestion that a replica is an inducement for a sale is denied. 6. The Freedom of Information requests are separate to the Common Good consultation process and are covered by their own processes. Any issues relating Freedom of Information should be referred via the correct channels.   In relation to the referred to FOI, all reasonable searches for information were carried out and the information supplied with some redactions. The Freedom of Information process is separate to the Common Good consultation process.  The Freedom of Information legislation allows an applicant to request that the Council reviews its FOI response within 40 working days of that response being received.  The applicants would have been informed of that right in the response they received. Please note meetings with Sotheby’s also took place in person and online.   1. This comment is noted. It is understood that the recording was not restarted immediately following the comfort break. This was entirely accidental and rectified as soon as it became apparent.   The contents of the final paragraphs of this representation are noted and will be considered as part of the decision making process. |
| EP12 | **The Bouchardon bust is tantamount to the modern-day Gordon Legacy to Invergordon**  Jane MacKinnon  The Highland Council is to be complemented on launching a public consultation. This is both a summons and an appeal to the community at large to make its wishes known and to contribute any available insight on the question.  It is understandable to view the ‘Bouchardon bust’ (**Figure 1, below**) as manna from the sky, surely the luckiest of windfalls to be found as a doorstop. Still, the Highland Council has a governance responsibility to look beyond its material value and consider this asset’s larger cultural and historical implications for Invergordon. It is – by all accounts (because who in Invergordon today, apart from the few who attended to its humble discovery, have actually seen it?) – an exquisitely carved block of marble. Is it mere, fortuitous financial capital upon which only the interest earned may be spent, or is there more value to it than meets the eye for Invergordon?  The Highland Council has announced a potential project to sell the bust, use the money to make a reproduction of it, and invest the rest as a capital investment for Invergordon’s Common Good fund, which will be able to spend the interest. In considering the key questions of the consultation document, I do not support the sale of the bust at this time. The consultation document in its current form is incomplete:  • it does not sufficiently represent the stature of Edmé Bouchardon (1698-1762) as an 18th century French artist;  • it does not sufficiently represent the historical significance of Sir John Gordon’s commissioning of this work during his Grand Tour nor the historical implications for Invergordon;  • it does not provide a theoretical budget to indicate likely interest return, on, for example, an annual basis and the scale and type of projects it might finance.  I will develop the first two points in particular, before ending with recommendations.  How difficult it is to appreciate an artist’s stature based on a stark photograph alone and an auctioneer’s dry assurance that the bust is “brilliant in execution”. We need to know more about this artist, get a sense of his other works and know more about the context of how Sir John Gordon came about to be in Rome at that time and sit for the artist.  Edmé Bouchardon’s stature as a French 18th century artist has only recently begun to be rediscovered and reassessed. In his lifetime, Bouchardon enjoyed both royal acclaim and aesthetic celebrity: the exquisiteness of his copy of the antique Faune endormie caused Louis XV to summon him back from Rome as his royal sculptor; it was the view of the oft-cited contemporary engraver Charles-Nicolas Cochin that Bouchardon was “the greatest sculptor and the finest draughtsman of 18th century France”. But even before leaving Rome in 1732 at the still young age of thirty-four, Bouchardon had gained stature for his busts, including that of Sir John Gordon (1702-1783), whose patronage, along with that of other British sitters, has been credited with contributing to the artist’s reputation1 . Indeed, Bouchardon took great pride in the fact that Pope Clement XII honoured him by sitting “three or four times” for his bust (**Figure 2**). Upon his return to France, Bouchardon would be installed at the Louvre, a great honour. He would execute the Grenelle Fountain, in addition to  *1 See Baker, Malcolm, Colin Harrison and Alistair Laing, “Bouchardon’s British Sitters: Sculptural Portraiture in Rome and the Classicising Bust around 1730”, The Burlington Magazine, Dec., 2000, Vol. 142, No 1173 (Dec., 2000), p. 753.*  twenty-four statues of saints in the choir of the Saint-Sulpice church in Paris. Louis XV first installed the artist’s breathtaking Cupid Carving a Bow from Hercules’s Club (**Figures 3 and 4**) at Versailles, and later at the Château de Choisy, site of the king’s trysts with Madame de Pompadour. But perhaps the most monumental work affirming his reputation is one that no longer exists. His bronze equestrian portrait of Louis XV, which he began in 1748, was erected seven months after his death in 1762. It stood in the Place Royal, now Place de la Concorde, in Paris. It did not survive destruction during the French Revolution thirty years later, when it was sawed down and the bronze melted. The revolutionaries did show a small measure of restraint, preserving one vestige of the sculpture, the king’s hand (**Figure 5**), on display in the 2016-17 Bouchardon exhibition, A Sublime Idea of the Beautiful, organised by the Louvre in Paris and the J. Paul Getty Museum in Los Angeles.  Bouchardon executed only about sixty sculptures but more than eight hundred drawings (**Figures 6- 8**), mostly in red chalk, a medium unforgiving for being uneraseable. He was an inveterate perfectionist and would make many drawings, an average eight or nine angles of live models for each sculpture. There exist one hundred fifty-seven drawings for the Louis XV statue (**Figure 6**).  It is a mark of how overlooked Bouchardon has been that the 2016-17 exhibition was the first retrospective devoted to this virtuoso artist, sculptor and draughtsman of the Enlightenment. Malcolm Baker, a Bouchardon specialist, stated at a Getty Research Centre lecture that there has been a surge of art-historical interest and scholarship into Bouchardon that will surely continue. As Jean-Luc Martinez, then President of the Louvre affirmed, Bouchardon was referred to as “the new Phidias, the modern equivalent to the greatest artist of ancient Greece”. Martinez and his coorganiser, Timothy Potts, Director of The J. Paul Getty Museum leave us in no doubt as to the artist’s stature: “Bouchardon is one of the most creative and fascinating of the French 18th century artists, playing a decisive role in the transition between Rococo and Neo-Classicism”.  Invergordon would benefit from greater transparency about who was consulted. The documentation seems to indicate that only an auction house – Sothebys Auctioneers – was consulted. This creates the impression that no other sources of expertise were invited to weigh in on the matter. Sothebys, esteemed as it is, is an interested party: were it to steward the sale of the sculpture, it would surely benefit from the commission, not to mention the prestige, of the sale. Its apparent estimate that the value of the statue “may have already peaked” is surely classic ‘salespeak’ to, not unwittingly, create a sense of urgency to sell. It is natural that a private auctioneer would seek to position its advice in such a manner as to hasten a commitment to sell to the highest bidder at the time. This is not a critique of Sothebys, rather it is surely a reality of the private art market.  However, the Highland Council was perfectly right in consulting a prestigious auctioneer, just not exclusively so, as would appear to be the case here. The auctioneers would seem to have neglected the historical significance of Sir John Gordon’s commissioning of this work and the implications for Invergordon. The bust attests to the place of Invergordon’s founders in the tradition of The Grand Tour, in which artists, musicians, poets, collectors and patrons, indeed, anyone seeking to broaden their horizons through cultural adventure, toured Europe in the 18th -19th centuries. The travelers would discover the great art collections of Europe, both private and public, attend concerts, visit architectural monuments, come into contact with and attend to literary salons on the continent.  The bust an important work of art by an important artist inscribing the sitter – not just any patron but a founding family member of Invergordon itself – within the tradition of the Grand Tour, and much more specifically, of Bouchardon’s British sitters in Rome, all on the cusp of the Scottish Enlightenment. What an extraordinary cultural dimension it adds to the history and origins of Invergordon, and it may even contribute to Scottish history more broadly! David Hume was 3 seventeen when Bouchardon completed the bust in 1728; Adam Smith, five. This was a formative moment for Sir John Gordon, a young baronet, who, like others, would partake of the burgeoning Enlightenment community on the continent as part of his education before returning to later serve as a member of parliament. He inherited the seat from his father, Sir William Gordon, the first baronet of the family, who “bought the estate of Inverbreakie in Ross-shire from the Macleod family (who had borrowed the money from his father), and rechristened it Invergordon” 2 .  While Sir John’s letters during the 1745 rebellion, which he robustly opposed, have been published, correspondence relating to his Grand Tour seems scant3 . Indeed, Baker et al. (2000, p. 753) assert that “nothing is known of his early life or visit to Rome” but that “Gordon may have sat to Rosalba Carriera at Venice in 1728 and was presumably on his Grand Tour”. It is interesting that it is Bouchardon himself who referred to Sir John Gordon directly in a letter to his father, dated 28th October 1728: “I undertook the bust of the gentleman John Gordon, gentleman of the son of the King of England, the deal was done at two-hundred Roman ecus, I made the model that people find a likeness, I already have the block of marble […] I must work on it at once and when it is sketched out, I’ll finish it as best I can”.4  As mentioned above, Gordon, as a British sitter, is associated with consolidating Bouchardon’s reputation for portraiture in Rome. The bust is therefore a rare material connection to this period in his life. The value of the work is clearly not merely financial. This historical dimension has been given short shrift in the consultation documentation, and the people of Invergordon deserve to be as informed they wish to be about the historical significance of this Gordon legacy before making such an important decision. Early defenders of the bust’s destiny after its 1998 discovery were Charles Pearson and Catherine Niven, former curator at the Inverness Museum. Bendor Grosvenor, an art historian, told BBC Radio Scotland: “Here is this work of art that has fallen into the lap of Highland council for no money at all and it seems all they want to do is sell it for a lot of money to someone outside Scotland, when really there is no reason they can’t lend it to Inverness Museum or National Galleries of Scotland or National Museum of Scotland.”5  The principle of inalienability applies – as cited by the consultative document – only to works which have already been integrated into public museum or library collections. There is something paradoxical about citing a principle, which might robustly justify the ethics of this decision, only to declare that the principle in question is inapplicable. Surely, if it cannot be applied, then neither can it remove the ethical responsibility inherent in such a decision, albeit in a different context.  To ensure responsible cultural governance, it would no doubt be wise to include the consultation of at least one art historian (preferably a French Bouchardon specialist – why not Juliette Trey or Guilhem Scherf, one of the curators of the 2016 exhibit at the Louvre?), a cultural policy professional,  *2 See J.M. BULLOCH: The Families of Gordon of lnvergordon, Newhall, also Ardoch, Ross-shire, and Carroll, Sutherland, n.p. [1906], p. 14. 3 See R. SEDGWICK: The History of Parliament: The House of Commons 1715-1754, London [1970], pp. 68-69. See also The Correspondence of Sir John Gordon, Bart. of Invergordon, on occasion of the Rebellion, Autumn, 1745, Edinburgh [1835]. 4 My rough translation from the French, cited in Baker et al. (2000, p. 753). Baker suggests that this reference indicates the regard in which Gordon was already held by the Prince, who would name him Secretary of Scotland in 1745. 5 Cited in https://www.theguardian.com/uk-news/2023/oct/30/bust-of-john-gordon-could-fetch-25m-atauction-if-highland-town-agrees-to-sale*  in addition to consulting on a national level with The National Trust, the Scottish National Gallery, and the Scottish Minister for Culture. They will surely have ideas not only about the broader ethical issues involved for the community in separating itself from its material culture, but beyond that, they would have ideas about more sophisticated legacy financing options, in addition to attentiveness to other aspects of such negotiations, including branding and copyright, which could have an impact on Invergordon’s cultural imprint.  At the time of this consultation, Britain is in the midst of a recession. Councils throughout the entire country are in dire economic straights and major cuts have been announced in the Chancellor’s latest budget. It is a difficult time and need is great. And yet, and yet, it is important to give this very important decision its due. Consider that the “long game” is not merely selling to the highest bidder. The real long game is Invergordon’s material culture, its ownership of all the diversity of its history and what makes it truly unique. The Bouchardon bust is indeed manna from heaven in drawing attention in such a compelling way to this unusual community that has played a role in two world wars with its marine presence, its lifeboat tradition of public service, its welcoming of a Polish community, its strategic location for both the energy and the tourism industries, and now its status as a freeport. The Bouchardon bust of Sir John Gordon offers yet another unique facet of this community’s story, which needs to be continually retold. The argument that not having a satisfactory suggestion for its disposal at the moment would justify its sale on this basis alone is inadequate. How terrible it would be for future generations to have sold the bust merely because one didn’t know what to do, the equivalent of throwing one’s hands up in the air.  The Highland Council should extend this consultation more broadly and completely – there would be no shame in doing so – ensuring that the consultation be well publicized and that the people of Invergordon can have as much information as they need to make the right decision. How this community meets this opportune moment together is the real long game.  This piece should ultimately find its way into a museum collection, but not by just any means. Presently, I recommend the following:  - consult a broader array of experts of national standing in art history, cultural and public policy, as mentioned above  - ensure that people get a chance to see the bust and can learn about its history and its historical and cultural significance for Invergordon; this could be in the form of a video, which could be attached to the consultation materials. Ideally, the bust could be featured in a small-scale exhibit in the National Gallery of Scotland, which would engender research and the creation of a video. This would also enable people to see for themselves the extent to which the sculpture qualifies for the Waverley criteria, i.e., closely connected with history and national life, of outstanding aesthetic importance, and of outstanding significance for the study of early neo-classic French sculpture and 18th c. British patronage in Rome.  - make sure that the consultation is broadly advertised in Invergordon; I had the impression not too many people knew about this one. - provide a theoretical budget to indicate likely interest return, on, for example, an annual basis and the scale and type of projects it might finance. This would give people a better sense of the tradeoff between selling the bust and the material benefits for the community.  **Figures:**  **Figure 1**: Sir John Gordon, 1728, Edmé Bouchardon. Invergordon Common Good Fund.  **Figure 2**: Bust of Pope Clemence XII, 1731 – Palazzo Corsini, Florence. The young artist’s talent meant that during his time in Rome, he received commissions of prestige, most notably here of the pope.  **Figure 3:** Cupid, 1750, Edme Bouchardon. Marble, 68 1/8 in. high. Musée du Louvre, Département des Sculptures, Paris. Image © Musée du Louvre / Hervé Lewandowski  **Figure 4:** Installation view at the Getty Center of Cupid Carving a Bow from Hercules’s Club, 1750 (detail) by Edme Bouchardon, courtesy Musée du Louvre, Paris  **Figure 5:** Main droite de la statue équestre de Louis XV 1758, RF 94 ; D 1990.1.6, Département des Sculptures du Moyen Age, de la Renaissance et des temps modernes © RMN-Grand Palais (musée du Louvre) / Photographe inconnu  **Figure 6:** Bouchardon’s ‘Horse head, front view, study for the Monument to Louis XV’ Photo: Musée du Louvre, dist. RMN-Grand Palais/Suzanne Nagy  **Figure 7 :** « Homme nu assis », d’Edmé Bouchardon. Montpellier, Musée Atger. © BIU DE MONTPELLIER/SERVICE PHOTOGRAPHIQUE  **Figure 8:** Self-portrait in red chalk. Edmé Bouchardon, around 1730, Rome. The Pierpont Morgan Library, New York | The historical information provided in this representation provides interesting background in relation to Bouchardon and Sir John Gordon. It will be considered within the consultation.  Responses to comments specific to the consultation are given below.  As stated in the consultation document, when the bust was acquired in 1930 it was because of who the subject was and not because of who had created it. The Provost and Town Clerk were instructed by Council to offer up to £5 to secure its purchase.  The quality and significant style of the sculpture is acknowledged in both the consultation document and the October committee report. However, as advised by the Council’s nominated experts, Sotheby’s, interest in Bouchardon within the art world remains small when compared to other sculptors.  The consultation is only the first part of a lengthy process in the event that the Council approves the proposal to sell. Thereafter, Court approval will be required. If granted, the Waverley Criteria will need to be complied with. Both of these processes have their own timescales outwith the control of the Council. The economic situation could change within that period which is why any financial considerations can only be in broad terms at this stage. The consultation document and the October committee report state that, as a capital receipt, any funds can only be used for capital expenditure and investment. Any specific projects would be appropriately considered at the relevant time.  The Council has a longstanding professional relationship with Sotheby’s (approx. 40 years). They have a renowned team of sculpture experts. The Council sought their expert advice as part of developing the options appraisal and business case. With regard to this matter, Sotheby’s are acting on the Council’s (ICGF) behalf and their advice is provided on the basis of what is considered to be in the Council’s best interests.  The fact this work was ongoing was in the public domain which resulted in wide press and media interest. Sotheby’s subsequently received an unsolicited approach asking them to put forward an offer to the Council for consideration. They did not take any proactive steps to seek out the interested party. However, they are a commercial institution the same as any other auction house and any fees received as part of the auction process would apply in every case.  The assessment of the figure offered is based on current comparators as stated in both the consultation document and October committee report. The 2012 auction record for Bouchardon resulted from a proposed auction sale in France when the state pre-empted acquisition at a high auction that may have been set in the knowledge this would happen. The other comparator is the 2023 sale of a Canova – significant because it is not far off the current offer and would always be expected to achieve more than Bouchardon.  The principle of inalienability and the process of accessioning or integration into a collection are entirely independent of each other. Inalienability occurs if there is a restriction to the disposal (sale, long lease or other beneficial right) and appropriation (change of use) of Common Good property.  Common Good property is considered inalienable in the following situations:   * Public purpose is expressly stated in the deed * Council dedicates it for a public purpose after acquisition * Uninterrupted public use for time immemorial   The statutory provisions that govern the requirement to obtain Court approval (section 75 Local Government (Scotland) Act 1973) refers to land not moveable property but there has been historical case law that extended it to cover a Burgh Charter. Therefore, it is the Council’s view that, notwithstanding the lack of specific application to moveable property, if sale is approved then Court approval should also be sought.  Integration/accessioning is completely different and governed by its own policies and processes in respect of the relevant museum/gallery concerned.  The bust is not accessioned into any of the Highland museum collections but is considered to be inalienable notwithstanding this.  Sotheby’s are acting on the Council’s behalf with regard to the provision of advice. They have a dedicated team of sculpture experts and are able to access significant resources to ensure the advice provided is as far ranging as possible. However, it will be a matter for Members during the decision making process to decide whether a second opinion should be sought.  The Council considers the consultation has been validly conducted. Anything further is for Members to debate and consider at the upcoming committee meeting on 13 May.  As the Waverley Criteria would be triggered by any approval to sell, the possibility of museum interest in acquiring the bust would be considered as part of that process.  Comments on recommendations:   * The Council is satisfied that Sotheby’s has the experts and access to resources to provide full and balanced advice on this matter. * The intention to obtain a high quality replica would allow for a proper, regular display to be created. Whilst the bust could be lent to a museum, this is entirely dependent on a museum undertaking a relevant exhibition. There has been no request to borrow the bust since it went to the Louvre and the Getty. * In addition to the advertising as required by the consultation process, the knowledge that the Council was undertaking an assessment of the potential; for sale was in the public domain via committee meeting and had received widespread press and media coverage. With regard to interest and possible projects, this has been replied to above. |

**ONLINE FORM RESONSES**

The online form contains 4 questions but with filters dependant on answer to yes/no as follows:-

* If no is selected the person is taken straight to the question asking what they think should be done with the bust instead. If yes is selected this question is not asked.
* If yes is selected the person is then taken to the question asking if they have any further comments.
* Both yes and no progress to the question asking if there are any relevant comments not covered by the previous questions.
* Not every person responding answered all questions available to them. The verbatim reproductions below relate only to those questions answered by each person taking part.
* 1 person responded twice – personal details are identical and both responses are a simple “yes” so this has been counted as a single response only.

**Online responses answering “YES” to question 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **ID ref no** (prefix with OL for online) | **Questions asked on online form for those voting yes** | **Representation received reproduced verbatim** | **Council’s responses** |
| OL1 | **Do you have any further comments?** | A replica should be displayed locally. Monies gained through the sale should be put to a clearly discernable local project, benefitting as many folk as possible | If a sale is agreed it is intended that a replica should be commissioned for local display. Any funds recovered will form part of the capital of Invergordon Common Good which will be available for investment to generate income which, in turn, can be used to benefit the community. |
| OL2 | **Do you have any further comments?** | I support the sale but am concerned about the handling of the monies raised and how it is funded to prevent fraudulent activity by any stakeholders involved in handling the finances. | Any sales receipt will be considered a capital receipt and can only be used in connection with capital projects which may include investments for income generated. Any decision in relation to spend will be subject to due diligence and scrutiny by Area Committee before agreement. |
| OL3 | **Do you have any further comments?** | I think it would be amazing for Invergordon to have such an amount in its common good fund  Goodness knows this town needs to be restored to it's former glory | Thank you for your comments which have been noted within the consultation process. |
| OL4 | **Do you have any further comments?** | Hopefully this money and the interest it accrues will be used for the good of the cummunity | This would be central to any plan for the use of interest earned. |
| OL5 | **Do you have any further comments?** | Money should be used to help invergordon come back up to the standard of town it was years ago. | Thank you for your comments which have been noted within the consultation process. |
| OL6 | **Do you have any further comments?** | It serves no useful purpose being locked away in a secure location that is not the location of its rightful owners. The money raised by a sale would be helpful in helping regeneration of the town. | Thank you for your comments which have been noted within the consultation process. |
| OL7 | **Do you have any further comments?** | Pointless having an asset which can never be displayed securely | That is why a museum quality replica is being suggested to allow for display without the associated security issues. |
| OL8 | **Do you have any further comments?** | Aslong as the money in definitely going back into invergordon community | Available Common Good funds will be used for the benefit of the residents of Invergordon. |
|  | **Do you have any other relevant comments not covered by the above question?** | The children definitely need better parks around the area as there is nothing around the all ages to do in invergordon and the high street could do with a good clean up aswell | Suggestions of use for income generated will be considered in the event that the proposal to sell goes ahead. In the meantime, your comment is noted. |
| OL9 | **Do you have any further comments?** | The money should be used to improve facilities in Invergordon | Your comment is noted. |
| OL10 | **Do you have any further comments?** | Since it’s too valuable to be on display it makes sense to sell providing that any money raised by this sale benefitted the town which sadly is badly needing a ‘boost’. My concern is that this money will not be spent wisely and squandered. | Any funds received must be held on behalf of Invergordon Common Good and managed and accounted for separately from other Council funds. Any use of funds generated will be subject to due governance and scrutiny by Area Committee. In making any decision regard must be had to the interests of the residents of the former Burgh area of Invergordon. |
| OL11 | **Do you have any further comments?** | The proceeds must be used for the benefit of Invergordon and its people. Any money being used from the proceeds of the sale should be openly accounted for. The money should be used within the Town and surrounding area. A committee should be appointed by the people of Invergordon and there must be a majority vote for use of the funds. The people residing in Invergordon must be in control of the allocation of funds. | Please see the answer above.  Common Good property is owned by the Council and, as a result, the responsibility for decision making rests with the Council in accordance with the governance within the Scheme of Delegations. The Black Isle & Easter Ross Area Committee contains Councillors who have been chosen by the people of Invergordon.  Therefore it is not possible for the community to be in control of the funds. In the event that the sale progresses, it would create the opportunity for income generating investment which would provide revenue which could be used for Invergordon. |
| OL12 | **Do you have any further comments?** | Funds raised from the sale should be invested in long term community projects. | The direct funds from any sale will be capital receipts and can only be used for capital projects/investment. Any income generated from those investments can, in turn, be used to benefit Invergordon. |
| OL13 | **Do you have any further comments?** | All the money should go towards a revamp of the town. | This point has been answered above. |
| OL14 | **Do you have any further comments?** | So long as a museum quality replica can be obtained as part of the deal | Such a replica is part of the plan in the event the sale proceeds. |
| OL15 | **Do you have any further comments?** | Please spend the funds fairly for whole community | This point has been answered above. |
| OL16 | **Do you have any further comments?** | Considering it was unknown and lay in a shed for x number of years. It should be sold, other wise it will only cost money for insurance, storage and be unseen. A replica could be obtained and put on show. | Thank you for your comments which have been noted within the consultation process. Such a replica is part of the plan in the event the sale proceeds. |
|  | **Do you have any other relevant comments not covered by the above question?** | Invergordon public would have to be consulted for ideas and benefits for the public, and all money to be accounted for with receipts for money spent. | Common Good funds must be managed and accounted for by the Council separately to other Council funds. A quarterly monitoring report is taken to Area Committee to update and address any specific matters such as forward planning for any use of income generated from investment of the capital receipt. The manner of planning and consulting for such use will be decided at a later date in the event the sale proceeds. This is a lengthy process of which this consultation is just the first step. |
| OL17 | **Do you have any further comments?** | The money is invested in low risk stock or bonds and the yield is used for the benifit of the residents of Invergordon only. | In the event of a sale, expert advice will be sought on the most appropriate form of investment to protect the capital receipt whilst also achieving the best possible gain for the fund. |
|  | **Do you have any other relevant comments not covered by the above question?** | A residents committee, chaired by an elected official, voted for by the residents committee is set up to decide what the interest on the investment is spent on. | This is not possible as a result of statutory provisions. Common Good is owned by the Council and responsibility for decisions rests with the Council in accordance with governance provisions. As this is only the first step in a potentially long process, any decision on how to best plan for and consult on the use of income generated from any investment will be made at a later date. |
| OL18 | **Do you have any further comments?** | Makes sense to sell to benefit the town but this money must be used wisely, not squandered and be openly accounted for | The Council is required by law to manage and account for Common Good funds separately to other Council funds. Any use will be subject to the due governance and scrutiny of Area Committee and in some cases full Council. |
| OL19 | **Do you have any further comments?** | Sell it and let Invergordon prosper from this good fortune. One of the most popular ports in the world. With this money Invergordon could do so much to improve the town and turn it in to an even more attractive visitor experience for guests to the Scottish Highlands. | Thank you for your comments which have been noted within the consultation process. |
|  | **Do you have any other relevant comments not covered by the above question?** | Sell it. | Thank you for your comments which have been noted within the consultation process. |
| OL20 | **Do you have any further comments?** | I believe the funds would be better used to regenerate the Invergordon area. | Thank you for your comments which have been noted within the consultation process. |
| OL21 | **Do you have any further comments?** | Provided the Wavwrly criteria is followed and if sold a replica be commissioned for display in the town | Advice obtained from Sotheby’s is that, if the proposal to sell is approved, the Waverley Criteria would indeed be triggered. That will then be subject to the relevant timescale for consideration over which the Council has no control. A replica forms part of the plan in the event of a sale. |
|  | **Do you have any other relevant comments not covered by the above question?** | Although it woild be sad to see this go it will be costly tp insure in the long term. | Thank you for your comments which have been noted within the consultation process. |
| OL22 | **Do you have any further comments?** | I believe this bust should be sold ONLY if the full proceeds of the sale will be received by the Common Good Fund for Invergordon. Highland Council itself should not benefit in any way, nor should any other town or area in the region. | The capital receipt for the sale of any Common Good asset must be received into the relevant Common Good fund which, in this case, is Invergordon. The capital receipt can only be used in connection with capital spend or investment.  The Common Good fund policy available on the Council website [Common Good Fund Policy | (highland.gov.uk)](https://www.highland.gov.uk/downloads/download/1845/common_good_fund_policy)  states “*The Council has a wide discretion over the use of Common Good funds as long as it is for the benefit of the relevant community following the application of reasonable judgement and having regard to the interests of the inhabitants of the former burgh. This can include purposes that may also be covered by the Council’s statutory responsibilities however this should* *only be where the funding is for service provision over and above that which the Council has agreed to provide under its mainstream budget.”*  Whilst there is no legal restriction on area of spend provided it is in the interests of the residents (e.g. capital investment to generate income by purchase of an asset outwith Invergordon), in practice the Council has only used funds for use in the area of the relevant fund. |
| OL23 | **Do you have any further comments?** | I think that the proceeds from the sale should be used to support the renovation of Invergordon Town Hall and the community campaign to develop the building as a theatre and cinema. | Thank you for your comments which have been noted within the consultation process. Any decision on use of funds in the event of the sale will be considered at a later date. |
| OL24 | **Do you have any further comments?** | I would like there to be an annual community day where food and entertainment is free. | Thank you for your comments which have been noted within the consultation process. |
| OL25 | **Do you have any further comments?** | It does depend who it is being sold to and what they intend to do with it. It's especially important to consider how safe the bust will be with future owners. | Thank you for your comments which have been noted within the consultation process. |
| OL26 | **Do you have any further comments?** | There are more options to consider than "sell - yes or no?". And very few people seem to really understand what the significance of the sale is, or what happens to any money received. | Thank you for your comments which have been noted within the consultation process. |
|  | **Do you have any other relevant comments not covered by the above question?** | This consultation is not wide enough in its reach, nor does it offer all the possible alternatives to selling - yes or no, and should be put ACCESSIBLY with clear facts and options before the general population of Invergordon, e.g. via mail-drop by Community Council and in shops etc. Many people wrongly believe that Invergordon would get the full selling-price of the bust (if sold), and that this would be available to the town for all kinds of improvements such as building a new school. Or think that HIghland Council will get all the money for its general expenditure and that this will be spent elsewhere. And many others don't really know what's going on at all due to lack of concerted, clear information. This is not appropriate background for a decision. This consultation needs to go out again in amended form, to take into account these misapprehensions and ignorance. | The options appraisal was detailed in the report before Easter Ross Area Committee on 30 October 2023. Link  [Item\_10.\_Bouchardon\_Bust (2).pdf](file:///C:\Users\saram\Downloads\Item_10._Bouchardon_Bust%20(2).pdf)  This report also detailed full information regarding the financial considerations at paragraph 11.  The consultation document provided links to relevant Committee reports and Council policy documents for more information.  When the consultation commenced in January 2024, the Community Council was given notice, served with a copy of the consultation documents and invited to make representations. The email notifying the Community Council included the following information “*It is important that this proposal is advertised widely within Invergordon to allow for full public consultation and we are happy for you to bring this to the attention of the wider community to encourage involvement in the process.”*  The consultation with associated details contained in linked documentation has been validly conducted. |
| OL27 | **Do you have any further comments?** | I would be in favour of the sale only if the capital raised remained in the common good fund and only the interest was spent. I would also not be in favour of any spending from this fund on things that the council already has an obligation to fund. | The consultation document states that any sale proceeds will be a capital receipt belonging to Invergordon Common Good fund.  It also provides a link to the Council’s Common Good Policy published on the Council website which provides detail on the use of capital funds and revenue expenditure. Capital receipts can only be spent on capital projects or used to increase the fund capital.  The Council has a wide discretions on the use of revenue funds (e.g. income earned from investments) provided regard has been had to the interests of the inhabitants of the former Burgh. This can include purposes under the Council’s statutory responsibilities but only over and above that which the Council is providing within its mainstream budget. |
| OL28 | **Do you have any further comments?** | I believe the money should be invested long term with the annual interest being used for the town’s common good in perpetuity, so protecting the legacy for future generations. It is very important that it is the town’s folk who decide how the money is spent, through it’s community council or equivalent. Ideally there would be a copy of the bust to display in the town. | The proposal is to use any capital receipts for investment opportunities generating income for the Invergordon Common Good fund. Whilst there may be discussions with the Community Council and community groups, the management and decision making in respect of Common Good matters rests entirely with the Council.  A museum quality replica for local display forms part of the proposal. |
|  | **Do you have any other relevant comments not covered by the above question?** | I believe the criteria that covers how the current common good fund can be spent should remain the same. I also believe that this consultation is flawed as it hasn’t been well publicised and there is no way of knowing whether the responders to this consultation are from Invergordon. I have lived in the town for over 30 years, but for all you know I could be from Crimea. | Common Good funds must be administered by local authorities in accordance with statutory and governance provisions. Please see the Highland Council’s Common Good Policy published on its website and accessible from this link: [Common Good Fund Policy | Common Good Fund Policy (highland.gov.uk)](https://www.highland.gov.uk/downloads/file/22405/common_good_fund_policy)  Regarding location of responders, there is not restriction within either the Community Empowerment (Scotland) Act 2015 or the guidance that precludes anyone from residing outwith the former Burgh area from responding. Section 104 (6) (b) states that the local authority must have regard to “*any representations made by other persons in respect of its proposals published under subsection (2)”.*  The former Burgh area is the boundary as at abolition of the Burgh in 1975 and may well be small than the current size of the town of Invergordon. |
| OL29 | **Do you have any further comments?** | The annual revenue from it in the common good fund could support schemes to enhance the town | Thank you for your comments which have been noted within the consultation process. |
|  | **Do you have any other relevant comments not covered by the above question?** | Looking back at pictures of Invergordon in the 50s and 60 s it looked so prosperous. Liners docking here with thousands of people have no facilities to keep them in town | Thank you for your comments which have been noted within the consultation process. |
| OL30 | **Do you have any further comments?** | I have answered Yes but I am not entirely clear on how the proceeds are dealt with and who has control of the proceeds. It could be worrying if just Highland Council reps are the only people with control. | See the response to representation OL27 |
| OL31 – OL46 | Respondents answered YES to the “yes/no” question but made no further comments to any of the following questions. | | |

**Online responses answering “NO” to question 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **ID ref no** (prefix with OL for online) | **Questions asked on online form for those voting no** | **Representation received reproduced verbatim** | **Council’s responses** |
| OL47 | **Please give reasons and comment what you think should be done with the bust instead.** | It can either be sent out on loan or can be kept and investment could be made to get the Town Hall into a position where it can be securely housed there and tourists can be charged to enter with funds going to the Common Good Fund. | Due to the value and security issues, a loan arrangement will only occur if the recipient body agrees to insure the bust for that purpose.  Prior to the consultation in relation to the Town Hall which resulted in the Council and Sheriff Court agreement that it could be sold, extensive attempts were made to find investment and grants that would allow for renovation but nothing was forthcoming. Invergordon Common Good has very little in reserves and certainly not enough to have paid for the renovations that would be required. |
|  | **Do you have any other relevant comments not covered by the above question?** | Before any sale, there should be an in person decision consultation and full details of how the revenue will be invested should be provided. There should also be a group set up which includes member of the public and elected representatives to decide how any money is distributed, in order to prevent abuse of the fund. | This is the consultation process that will consider whether the proposal to sell should be approved. Area Committee will make a recommendation to full Council for a decision to be made. The next step will be to seek the approval of the Sheriff Court. Advice from Sotheby’s has already confirmed that the Waverley Criteria will be triggered which allows museums the opportunity to express interest and raise funds to purchase. This process has a time frame outwith Council control. All of this must be completed before it could be sold to a private collector.  Such a group as suggested is not possible due to statutory provisions. Common Good is owned by the Council and decision making rests with Council in accordance with governance in the Scheme of Delegations. A decision about planning for and consulting on use of any funds generated as a result can only be considered in the event a sale takes place. |
| OL48 | **Please give reasons and comment what you think should be done with the bust instead.** | Enough of invergordon has been sold off already | Thank you for your comments which have been noted within the consultation process. |
| OL49 | **Please give reasons and comment what you think should be done with the bust instead.** | Should stay in Invergordon | Thank you for your comments which have been noted within the consultation process. |
|  | **Do you have any other relevant comments not covered by the above question?** | Keep it in Invergordon | Thank you for your comments which have been noted within the consultation process. |
| OL50 | **Please give reasons and comment what you think should be done with the bust instead.** | I don’t think enough clarity in what the money would be used for and concerned it won’t be used to benefit the town in the correct manner. Also why sell it - display it. It’s an amazing piece to have. How fortunate Invergordon is to have it. | This consultation is the first step in a lengthy process involving organisation in addition to the Council. It is not possible to be precise about use and investment until a sale proceeds when expert advice will be sought before decisions on investment would be taken. Any decision relating to the use of income from investment interest would be subject to the due governance and scrutiny of Area Committee and in making any decision, regard must be had to the interests of the inhabitants of Invergordon as required by statute.  The consultation document explains the difficulties with display arising from the associated value and security implications. |
|  | **Do you have any other relevant comments not covered by the above question?** | No | Noted. |
| OL51 | **Please give reasons and comment what you think should be done with the bust instead.** | The bust should not be sold and potentially lost from the UK forever . Instead it should be, as Charles had wanted, be displayed in the National Museum of Scotland. | Thank you for your comments which have been noted within the consultation process. |
| OL52 | **Please give reasons and comment what you think should be done with the bust instead.** | Invergordon museum fully supports IDT and the Community Council objection to the sale of the Bust. | Thank you for your comments which have been noted within the consultation process. |
| OL53 | **Please give reasons and comment what you think should be done with the bust instead.** | Keep the bust In a secure display case in Invergordon, within a building, to be viewed by the local residents and paying visitors from the cruise liners, approximately 100 thousand visitors each year to the town .  This could be part of a museum or heritage centre with added benefits of teas and coffees and local artisan crafts . | Thank you for your comments which have been noted within the consultation process  The level of security and insurance costs associated with this suggestion have would make it impractical. |
|  | **Do you have any other relevant comments not covered by the above question?** | Give Invergordon residents a voice in making the decision , not just a few local councilors . | The current consultation is the statutory vehicle for the community to express their views. The Council must have regard to all comments received when making a decision. |
| OL54 | **Please give reasons and comment what you think should be done with the bust instead.** | The Bust should go on show in Invergordon, to raise funds for the common good fund. My insurance broker has quoted £6k to insure it. | Insurance costs would be an expense charged against Invergordon Common Good fund. This figure quoted in this representation is in excess of the annual income earned by Invergordon Common Good fund. The report on the 2022/23 annual accounts, 2023/24 monitoring and 2024/25 proposed budget was presented to Black Isle and Easter Ross Area Committee on 22 January 2024. Link: [Item\_8c\_\_\_Invergordon\_CGF.pdf](file:///C:\Users\saram\Downloads\Item_8c___Invergordon_CGF.pdf) |
| OL55 but same person as EP7 so combined & counted as 1 response. | **Please give reasons and comment what you think should be done with the bust instead.** | No other options have even been considered. | The options appraisal was detailed in the report before Easter Ross Area Committee on 30 October 2023. Link  [Item\_10.\_Bouchardon\_Bust (2).pdf](file:///C:\Users\saram\Downloads\Item_10._Bouchardon_Bust%20(2).pdf) |
|  | **Do you have any other relevant comments not covered by the above question?** | This item has been hidden away for decades. There is no rush to sell it now. There will always be collecters of this type of artwork if the town decides to sell after all other avenues have been explored. | Thank you for your comments which have been noted within the consultation process. |
| OL56 | **Please give reasons and comment what you think should be done with the bust instead.** | A yes/no vote is not a fair consultation when Highland Council conducting the consultation are the organisation wishing to sell.  Why is it an area ward decision to sell?  A second full and honest consultation considering all options should take place.  I consider there are other options available and should be explored | Common Good is owned by the Council but required to be managed separately from other Council funds. Statute required the Council to conduct a consultation when proposing the dispose or change the use of Common Good property. Therefore, this consultation is validly conducted.  The Council Scheme of Delegation deals with the decision making governance. Area Committee will consider the outcome of the consultation but due to its value against the total value of Invergordon Common Good fund, the final decision will be referred to full Council. All Councillors are ultimately responsible for all Highland Common Good funds.  When the outcome of the consultation is considered by Members, they must have regard to the representations received before making a decision. |
|  | **Do you have any other relevant comments not covered by the above question?** | Yes! Not enough consideration is given to arrangements for any funds raised should the bust be sold. | The consultation document states that any sale proceeds will be a capital receipt belonging to Invergordon Common Good fund which can only be used to fund capital expenditure or increase the capital held by the Common Good fund.  Even if the proposal is approved, this is still the first step in a lengthy process therefore, financial considerations can only be in broad terms at this stage. In the event of the sale going ahead, expert advice would be sought on investment opportunities based on the economic circumstances relevant at the time. |
| OL57 | **Please give reasons and comment what you think should be done with the bust instead.** | The council should have taken more time to explore other options and avenues regarding the future of the bust. Informing the community of all possible outcomes is in there duty of care regarding the common good fund. In my opinion. | Thank you for your comments. When the outcome of the consultation is considered by Members, they must have regard to the representations received before making a decision. |
|  | **Do you have any other relevant comments not covered by the above question?** | A consultation should reflect more than just one avenue to explore. Giving the community a choice rather than direction. That avenue may turn out to be the correct one but options needs to be there for people to make informed choices with all the correct and accurate formation. | Your comments are noted and will be considered as part of the analysis of the consultation process. |