

# The Highland Council

<b>Agenda Item</b>	<b>7</b>
<b>Report No</b>	<b>CIA/32/23</b>

**Committee:** City of Inverness and Area

**Date:** 20 November 2023

**Report Title:** Inverness Common Good Fund - Reclassification of Inverness Town House car park

**Report By:** Interim Executive Chief Officer, Performance & Governance

## **1. Purpose/Executive Summary**

- 1.1 This report details the investigations undertaken in connection with establishing the classification of Inverness Town House car park.
- 1.2 The report also addresses the consequent impact on the financial position of Inverness Common Good Fund.

## **2. Recommendations**

- 2.1 Members are asked to note:
  - i. The investigations undertaken in connection with the legal title for the Town House car park.
  - ii. The reclassification of the Town House car park from Common Good to General Fund.
  - iii. The consequent impact on the financial position for Inverness Common Good Fund.

## **3. Implications**

- 3.1 Resource – Reclassification of the Town House car park from Common Good to General Fund will have a budgetary impact on Inverness Common Good Fund.
- 3.2 Legal – The Council complied with its statutory duty under section 102 Community Empowerment (Scotland) Act 2015 to establish and publish Common Good registers including the Inverness Register in February 2020. In doing so, the Council was not required under the terms of the statutory guidance to re-investigate all assets anew if they had no cause to consider them other than Common Good. A fuller explanation in this regard is detailed below at paragraph 5.

- 3.3 Community (Equality, Poverty, Rural and Island) – The reclassification of the Town House car park has budgetary implications for Inverness Common Good Fund reducing the level of available income received into the fund for community benefit.
- 3.4 Climate Change / Carbon Clever – none.
- 3.5 Risk – The reclassification of this asset will reduce available income generation resulting in a need to ensure the budget is balanced to meet obligations appropriately.
- 3.6 Health and Safety (risks arising from changes to plant, equipment, process, or people) – non.
- 3.7 Gaelic – none.

#### **4. Inverness Town House car park background**

- 4.1 Inverness Town House as a building was originally obtained in 1709 with the property being held for the behoof of the Community of Inverness. Thereafter over a number of years additional parcels of land were acquired for the purposes of extending the Town House until it settled into its current footprint.
- 4.2 In or around 1930 discussions were taking place between Inverness Town Council and Castle Street shopkeepers about a possible Castle Street Improvement Scheme. On 14 October 1932 there was a landslide on Castle Hill and discussions commenced between the Town Council and the County Council for both securing the stability of the Castle and undertaking a road widening scheme for Castle Street. The area under discussion included the land now occupied by the Town House car park. Some properties were destroyed by the landslide whilst others were left in a dangerous condition resulting in acquisitions by both the Town and County Councils for the purposes of demolition. By 1933 the Councils had entered an agreement confirming the proposed use of the land i.e., by the County Council in connection with the Castle and by the Town Council in connection with the Castle Street improvements. By 1937 the Chief Constable was suggesting that the now vacant ground in Castle Street should be levelled for parking and the Town Council Roads & Drainage Committee instructed the Burgh Surveyor in this regard. Both the car park and the street widening continued to progress over the next 20-30 years.
- 4.3 In 2016 the Town House and car park title deeds were collated as part of the registration process in relation to Historic Environment Scotland funding for refurbishment of the Town House. There were 29 deeds and 2 plans. Title to the whole area was registered in the name of the Highland Council. Registration of title does not differentiate between General Fund and Common Good.

#### **5. Common Good asset register**

- 5.1 The Local Authority Scotland Account Advisory Committee 2007 guidance required Common Good asset registers to be introduced by March 2009. Highland Council undertook a piece of work to comply with this duty. The Town House car park was included on the Common Good asset register at this time.

- 5.2 Later, Section 102 Community Empowerment (Scotland) Act 2015 ('the 2015 Act') required local authorities to establish and maintain Common Good asset registers. The statutory guidance states that *"There is no requirement on local authorities to make further checks or reconfirm titles on these assets before including them on the list, so long as they are satisfied that the information held on those properties is robust"*. Therefore, the existing (2009) lists formed the basis of the consultation under the 2015 Act. The Town House car park was duly included in the new Inverness Common Good asset register published in February 2020.
- 5.3 The Common Good Asset Registers (along with general registers) are live documents and if title investigations are triggered this may lead to a requirement for property to be reclassified. An example of this being the reclassification of the bowling clubs in Inverness from General Fund to Common Good.

## **6. Town House car park title investigation**

- 6.1 As part of the Inverness Castle development project, a query arose requiring the title of the Town House car park to be investigated. The investigation was intensive and involved assessing deeds, plans, historic maps, pictures, old newspapers, Burgh and County Council Minutes.
- 6.2 Identification of Common Good can be complex and there is no statutory definition. The rules derive from case law and in general terms Common Good is property formerly owned by a Burgh (not County Council) which was not acquired for a statutory purpose or held on special trust. Deeds are often not clear whether property was acquired for a statutory purpose which is why other information sources (noted at 6.1 above) are vital. It is also the case that by the 20<sup>th</sup> century most Burgh acquisitions were pursuant to a statutory purpose.
- 6.3 When the acquisitions that now incorporate the Town House car park took place, Inverness Burgh had an active Common Good Committee. However, this Committee did not get involved in the discussions or decision making relating to the acquisitions. The Committees involved were the Burgh Council Joint Works & Planning Committee, Roads & Drainage Committee and Roads Committee. These Committees largely dealt with statutory matters including - street improvement and widening, acquisition of ruinous buildings and town improvements.
- 6.4 The only involvement of the Common Good Committee with the Town House car park was in 1949. The Common Good Committee agreed that the Common Good would pay a "rent" of £5 per annum to the Roads Committee for a portion of the car park for use by Councillors. In February 1953 the Works Committee discontinued the specifically reserved Councillor spaces in the car park. This 'rental' arrangement demonstrates that the car park was not considered to be a common good asset.

## **7 Conclusion and consequences**

- 7.1 The title investigation leads to the conclusion that the land now occupied by the Town House car park was acquired for statutory purposes. Therefore, it is not a Common Good asset, and the register should be amended accordingly.

- 7.2 This conclusion will have consequences for Inverness Common Good Fund because the car park is an income generating asset. The 2023/24 budgeted income from the Town House car park is £24k. The actual income earned in the first 6 months of this financial year is £30k but this is a gross figure and will be subject to deduction of operational costs by the Traffic & Parking Team at the end of the financial year.
- 7.3 The loss of the car park as an income generating asset will reduce the funds received by Inverness Common Good Fund resulting in less money being available for use in connection with Common Good discretionary spend.

Designation: Interim Executive Chief Officer, Performance and Governance

Date: 25 October 2023

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