

## What is Common Good?

Common good is property owned by a local authority which has been passed down, through local government reorganisation, from former burghs. Those burghs would have received it as a gift or purchased it. It includes land and buildings, and moveable items such as furniture and art. It may include cash where property has been sold and income received.

There is no statutory definition of common good, and it can be difficult to determine what property is common good. In general, if a property was acquired by or gifted to a former Burgh, it could have common good status.

The use or disposal of an item of common good property can be subject to conditions imposed by those who gifted or sold the property. In some cases, whether or not a property can be sold may have to be decided by the courts.

It is worth noting that, due to the time which has passed since property was first acquired by a burgh, it can be difficult to establish whether property is common good.

## Why are we consulting on Common Good?

Part 8 of the Community Empowerment (Scotland) Act 2015 aims to "increase transparency about Common Good assets and community involvement in decisions taken about their identification, use and disposal". The Act places new duties on the council in relation to common good property:

- Section 102 of the Act places a duty on the council to establish and maintain, after consultation, a register of property which is held by it as part of the common good.
- Section 104 imposes the requirement for public consultation before the disposal or change of use of a common good property.

While Stirling Council have always held a list of land and property assets which were considered Common Good, the lack of a statutory definition of common good has led to some concerns that this list was incomplete and that a proper audit of all land and property assets within the 5 former burghs was required.

An investigation of legislation relating to Council-owned land and property, together with an evaluation of how other local authorities had addressed the identification of

Common Good assets led to the establishment of a set of criteria which we have used to identify land and property assets which we think are Common Good.

## Summary of Common Good Criteria

1. Located in a former burgh
2. Acquired on or before 15 May 1975
3. Used by the general public for a long time
4. The title deeds specify that the area of land or building is to be held or gifted to the community
5. Dedicated for a specific public purpose
6. The land, building or artefacts was gifted to the community, usually for a specific purpose
7. Title conditions ensuring public use were agreed in the original charter.

## Criteria discounting an asset from being Common Good

1. Asset not within a former Burgh
2. Acquired after 15 May 1975
3. Property has been acquired using statutory powers
4. Property is held on a trust

These criteria have been applied to the land and property assets within our 5 former burghs and the properties which we think might be Common Good have been brought together into the property lists that are available through this public consultation.

It is very important however that we ensure our Register of Common Good is as complete and correct as it can be and so we welcome any and all comments and suggestions as to other Council-owned land and property assets which the public think should be considered for inclusion in the register.

Please note however that, in order to be included on the Register, any suggested assets must satisfy all of the above criteria in order to be included. In addition, the final decision as to whether an asset will be included in the Register of Common Good will be made by the elected members who sit on Stirling Council's Civic Panel.

## What Information about Common Good property do we need to publish?

The Community Empowerment Act Guidelines suggest a minimum set of information which should be available to enable members of the public to identify and locate individual assets.

- Former Burgh: The name of the burgh to which the property originally belonged.
- Name of property: The name by which the asset or cash fund is generally known.
- Description of property: A brief description of what the asset is, or was, if now held as cash.
- Location of property: Information about the location of the asset, including a map or postcode/Unique Property Reference Number (UPRN)/OS reference if available. A member of the public should be able to use this information to accurately identify where the asset is.

Where the property is a common good income fund or an item is in secure storage, it is not necessary to include a precise location.

For income funds, the location details should include a statement that the annual accounts of the common good will provide more information on any use of income funds.

## What Information have we provided for the consultation?

For each property included in the public consultation, Stirling Council have included the following information:

1. An asset report detailing the information about the asset
2. A location Plan showing the position of the asset.
3. The relevant title deed or other deed transferring ownership of the asset to Stirling Council or their relevant predecessor (where applicable).
4. Other supporting evidence of ownership such a newspaper article or similar.
5. A photograph of the asset

## What do we want from you?

Stirling's residents collectively hold the historical memory of the area and their knowledge of their communities represents a valuable resource which can help Stirling Council to ensure our Common Good register is as complete as possible.

We are asking all Stirling's residents, and any other interested parties, to check the properties we think might be Common Good and let us know whether they agree with our findings.

In addition, we are also asking for suggestions about other assets which the public think may be Common Good in case we have overlooked these. Obviously, in order to be included in the final register, these suggested assets will need to be assessed against our Common Good criteria and any impact on the future management and maintenance of those assets will need to be considered but this will allow us to ensure we have investigated all possible avenues before the final register is published.

## Bibliography

Further reading is available on both Common Good assets and the relevant legislation under which this public consultation is taking place.

1. Community Empowerment (Scotland) Act 2015 – Part 8, Common Good Property: <https://www.legislation.gov.uk/asp/2015/6/part/8/enacted>
2. Common good property, statutory guidance for local authorities: <https://www.gov.scot/publications/community-empowerment-common-good-property-guidance-local-authorities/>
3. The land of Scotland and the common good: report. The final report of the Land Reform Review Group. <https://www.gov.scot/publications/land-reform-review-group-final-report-land-scotland-common-good/pages/36/>
4. Common Good Land - Scottish Legal News: [https://www.scottishlegal.com/uploads/LAND%20FOCUS\\_Common%20Good%20Land\\_Sept%202019.pdf](https://www.scottishlegal.com/uploads/LAND%20FOCUS_Common%20Good%20Land_Sept%202019.pdf)
5. Common Good land – good practice: <https://www.landcommission.gov.scot/our-work/good-practice/common-good-land>