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How the private flats were allowed on the community's land

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LIKE many Scottish towns granted royal burgh status, Peebles is home to swaths of common good land given by royal charter to the community.

Despite successive local government reorganisations, the town, and many others like it, continues to hold such land. All that has changed is the paperwork.

Two years ago, a private housebuilder obtained planning permission to develop flats on a stretch of land at March Street, near the River Tweed. However, the firm ran into financial difficulties, and the project was taken over by Kenmore Homes. Kenmore then became aware of doubts regarding the ownership of a portion of the land.

Through consultations with the Registers of Scotland, which maintains land and property registers across the country, it emerged the land on which the flats had been built belonged to the Peebles common good fund. Scottish Borders Council had failed to identify who owned the land in question as title deeds were practically indecipherable because of their age.

The housing had already been built, so in May last year, the local authority's Common Good Fund Working Group elected to sell the land to Kenmore for £50,000.

In another incident, in 2003, the council attracted criticism for using around £9000 from the Peebles common good fund to subsidise a private bus company.

For the year to March 2004, the local authority has acted as manager for some £5,264,000 across its eight common good funds in Duns, Galashiels, Hawick, Jedburgh, Kelso, Lauder, Selkirk and Peebles.

Following a series of complaints by members of the public, Audit Scotland commissioned a report by the local authority's internal auditors into the council's stewardship of its common good assets.

The review revealed the council did not have a record of movable common good assets, stating that as a consequence it is "failing to ensure that the public do not suffer a loss of usage, income or title to common good property".

The review warned "if there is a failure to properly identify common good properties, these will not be correctly accounted for when they are sold".

The local authority has since reviewed its assets, and plotted all common good lands to ensure accurate maps can be made available to the public.

MONEY, LAND AND PROPERTY

- Common good assets consist of finances and property and land assumed by councils from the former burghs of Scotland. In some cases, the assets also comprise land and property given by philanthropists.
- Although some councils moved common property into trusts during local government reforms in the 1970s, the vast majority of common good assets are now stewarded by the 32 local authorities in Scotland.
- The law regarding common good is oblique. The Common Good Act 1491 is still in force, although many decisions over common good land are made in the Court of Session.
- The value of funds across the country is almost £181m, while it is estimated that the UK total assets are worth £1.8bn.

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