



**UNTO THE RIGHT HONOURABLE  
THE LORDS OF COUNCIL AND SESSION**

The Petition of

**THE ANGUS COUNCIL**, a local authority constituted under the Local Government etc (Scotland) Act 1994 and having its headquarters at Angus House, Orchardbank Business Park, Orchardbank, Forfar, Angus DD8 1AN

PETITIONER

for

authorisation under s75(2) of the Local Government (Scotland) Act 1973 for the appropriation and disposal of land forming part of the common good fund.

**HUMBLY SHEWETH:-**

*Jurisdiction*

1. The Angus Council (the "Petitioner") is a local authority constituted under the Local Government etc (Scotland) Act 1994 and having its headquarters at Angus House, Orchardbank Business Park, Orchardbank, Forfar, Angus DD8 1AN. The subject matter of this petition is heritable property in Scotland belonging to a common good fund. This court has jurisdiction. There are no proceedings pending elsewhere concerning the subject matter of the present petition.

*The former Lochside Leisure Centre*

2. That the subject matter of this petition is the heritable property formerly known as Lochside Leisure Centre, Craig O'Loch Road, Forfar DD8 1BT (the "Leisure Centre").
3. That the land on which the Leisure Centre was built is part of land acquired from Strathmore Estates by the Provost, Magistrates and Councillors of the Royal Burgh of Forfar by disposition dated 24 August 1954. The purchase of the land was made from funds forming part of the Common Good of the Royal Burgh of Forfar. The land was disposed to the Provost, Magistrates and Councillors of the Royal Burgh in their capacity as managers and custodians

of the Common Good. The land became part of the Common Good of the Royal Burgh of Forfar. Reference is made to the disposition by Strathmore Estates dated 24 August 1954 and associated plan which are produced herewith.

4. That the Leisure Centre was constructed in and around 1974 and 1975 and opened in April 1975, initially under the name Forfar Leisure Centre. Some of the remainder of the land purchased in 1954 now forms Forfar Loch Country Park, within which the Leisure Centre is situated.
5. That the title to the Common Good of the Royal Burgh of Forfar passed to Angus District Council on 16 May 1975 in terms of the Local Government (Scotland) Act 1973 (the “1973 Act”) s222(2) and the Local Authorities (Property etc) (Scotland) Order 1975 Art 10(1). The title then passed to the Petitioner on 1 April 1996 in terms of the Local Government (Scotland) Act 1994 s15(4) and the Local Authorities (Property Transfer) (Scotland) Order 1995 Art 12).
6. That the Petitioner had previously taken the view that the Leisure Centre buildings were not part of the Common Good but that the ground lease for the Leisure Centre was an asset of the Common Good. However, in a previous related action (*Guild v Angus Council* 2021 SC 83), this court determined that the Leisure Centre buildings had acceded to the land on which they were built and are thus part of the Common Good.

#### *The proposed use of the Leisure Centre*

7. That in or around February 2017, the Leisure Centre was closed. The Petitioner had decided that the facilities it provided were surplus to requirement in light of the completion of new sport and leisure facilities at the nearby Forfar Community Campus.
8. That the Petitioner proposes to demolish the Leisure Centre and return the associated land to park land as part of Forfar Loch Country Park (the “Proposal”). The land will remain part of the Common Good and the Petitioner will remain the heritable proprietor. The general nature of the use of the land will remain leisure and recreation. The use of land for leisure and recreation will continue to provide benefit to the inhabitants of the former Royal Burgh of Forfar and surrounding areas.

#### *Consultation, consideration and decision*

9. That a decision by the Petitioner to proceed with the Proposal was set aside by this court (*Guild v Angus Council* 2021 SC 83). The Petitioner accepted that the decision in that case meant that it had no power to proceed with the Proposal without (1) following the consultation process required under s104 of the Community Empowerment (Scotland) Act 2015 (the “2015 Act”) and (2) seeking the authority of the Court under section 75(2) of the 1973 Act.

10. That, subsequently, the Petitioner reconsidered the future of the Leisure Centre. The Petitioner established an initial consultation process to obtain public feedback on options for the future of the Leisure Centre. The Petitioner considered a proposal from Station Park Community Trust (now known as Forfar Community Football Trust) albeit that proposal was subsequently withdrawn. The Petitioner marketed the Leisure Centre for lease. The Petitioner considered five options: (1) the status quo; (2) sale; (3) lease; (4) community asset transfer; or (5) proceed with the Proposal. The Petitioner undertook an options appraisal process of each of these options.
11. That, on 9 September 2021, the Petitioner decided to proceed to a statutory consultation under the 2015 Act. The consultation invited responses on the basis that the Petitioner was considering proceeding with the Proposal. The consultation was open from 1 October 2021 and 26 November 2021 and received 400 individual responses.
12. That, at a full meeting of council on 16 December 2021, the Petitioner resolved to proceed with the Proposal. In making that decision, the Petitioners took into account: (1) the responses to the statutory consultation; (2) the outcome of indications of interest in leasing the Leisure Centre; (3) the absence of any Community Asset Transfer Request; (4) a potential offer to purchase the Leisure Centre; (5) all other material considerations contained in the relevant report, including an updated options appraisal. Reference is made to Angus Council Report No 365/21 dated 16 September 2021 and Item 5 of the Minute of Meeting of Angus Council held on 16 December 2021 which are produced herewith and held to be incorporated herein for the sake of brevity.

*Requirement for this order*

13. That the Proposal constitutes a change of use of the land (*Guild v Angus Council* 2021 SC 83 at [6]). A change of use of land held by a local authority is an appropriation (*Guild* at [50]).
14. That the Proposal involves demolition of buildings forming part of the Common Good. The demolition of such buildings is a disposal (*Guild* at [16]).
15. That the permission of the Court of Session or the Sheriff is required before the Petitioner can appropriate or dispose of land forming part of the Common Good (Local Government (Scotland) Act 1973 (the “1973 Act”) s75(2)).
16. That the Petitioner seeks an order under section 75(2) of the 1973 Act authorising the Petitioner to proceed with the Proposal.
17. That this petition is presented under and in terms of Section 75 of the 1973 Act.


**MAY IT THEREFORE** please your Lordships to appoint this petition to be intimated in accordance with the requirements of the Coronavirus (Scotland) Act 2020 Schedule 4 Paragraph 1A and to be served on the persons named and designed in the schedule hereto in the manner there specified; and to be advertised once in *The Courier*; and for information about the petition and a hyperlink to it to be published on the Petitioner's website and the Petitioner's social media channels; and to ordain any person claiming an interest to lodge answers hereto, if so advised, within 21 days after such intimation and service; and upon resuming consideration hereof, with or without answers, and after such further enquiry as to your Lordships may seem proper:

(a) to authorise the Petitioners to proceed with the Proposal as described in this petition;

(b) to find the Petitioner entitled to the expenses of this petition against any person offering opposition;

and to decern; or to do further or otherwise in the premises as to Your Lordships shall seem proper

According to Justice, etc

A handwritten signature in black ink, appearing to read 'Haddow', with a large, sweeping flourish extending to the right.

## **SCHEDULE**

Service in common form is sought upon:

1. The Scottish Ministers, St Andrew's House, Regent Road, Edinburgh EH1 3DG.
2. The Royal Burgh of Forfar Community Council, 65 Glenmoy Terrace, Forfar DD8 1NH.



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