

ANGUS COUNCIL

POLICY AND RESOURCES COMMITTEE – 24 OCTOBER 2023

COMMON GOOD REGISTER – ARBROATH

REPORT BY THE DIRECTOR LEGAL, GOVERNANCE & CHANGE

ABSTRACT

This report provides an update on the adoption of a publicly available Register of Common Good property assets for the former Royal Burgh of Arbroath following upon the publication of a draft Register of the Arbroath Properties as required by section 102 of the Community Empowerment (Scotland) Act 2015 as amplified by Statutory Guidance subsequently issued by the Scottish Government in July 2018. It also provides an update on the progress made in relation to preparation of lists of Common Good properties held by the other Angus burghs of Brechin, Forfar, Kirriemuir and Montrose.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) Notes the representations received by the Council following upon the published statutory consultation on the List of Land and Buildings of Common Good Register for Arbroath, and the Council's responses, all as detailed in Appendix 1;
- (ii) Notes that the representations do not require any addition to or deletion from the published draft Register as detailed in paragraph 5 of this Report;
- (iii) Notes that the representation on behalf of the Arbroath and Montrose Scouts supports the retention of Keptie Park and Pond as part of the Common Good as an asset for the whole community and will be published along with the Register for Arbroath as required by the legislation, notwithstanding that it does not relate to any proposed addition to or deletion from the Register List of Properties;
- (iv) Notes that the response regarding Arbroath Library relates to a property which is not Common Good and will not therefore be included in the final Register;
- (v) Notes the list of Buildings in Appendix 3 excluded from the Common Good on legal grounds and transferred/to be transferred to Angus Council General Fund;
- (vi) Notes the recommendation in Report No 190/21 approved by Policy and Resources Committee of 8 June 2021 that the Council will undertake a public consultation before any future proposals to sell or lease Arbroath Library;
- (vii) Agrees to adopt the List of Land and Buildings detailed in Appendix 2 as the assets of the Common Good of the former Royal Burgh of Arbroath and to publish it in accordance with the legislation and the Statutory Guidance; and
- (viii) Notes progress with the compilation of, and consultation on, a publicly accessible register of Common Good property assets for the remaining Angus burghs of Brechin, Forfar, Kirriemuir and Montrose.

2. ALIGNMENT TO THE COUNCIL PLAN

This report contributes to the achievement of the priorities in the Angus Council Plan that we want: our communities to be strong, resilient and led by citizens; and Angus Council is efficient and effective; and that we support and equip our citizens to deliver on their local aspirations.

3. BACKGROUND

Report 190/21 considered by the Policy and Resources Committee on 8 June 2021 detailed proposals for the compilation of, and consultation on, a publicly accessible register of Common Good property assets for the five burghs in Angus, Arbroath, Brechin, Forfar, Kirriemuir and Montrose. This publicly accessible register and associated consultation are required under Part 8 of the Community Empowerment (Scotland) Act 2015. It was agreed that the list for Arbroath would be undertaken first, followed by the list for Brechin, given that some work had already been undertaken in relation to these areas.

At that meeting on 8 June 2021, Committee approved inter alia the following recommendations:-

- (i) delegates authority to the Director of Legal and Democratic Services to consider and respond to all representations, in terms of the legal position, and publish the representations and responses;
- (ii) notes that the Director of Legal and Democratic Services will then bring a report to Committee seeking approval to publish the common good register for Arbroath;
- (iii) agrees to follow the same procedure for the other common good burghs in due course;
- (iv) notes that the Director of Legal and Democratic Services will bring a report to Committee seeking approval of a draft list to be consulted on before taking the steps outlined above for each of the other common good burghs.

A further report (No. 222/22) considered by the Policy and Resources Committee on 30 August 2022 provided an update on progress.

4. CURRENT POSITION

Prior to the Community Empowerment (Scotland) Act 2015 coming into effect on 27 June 2018 the Council already had a detailed asset register of Common Good assets covering relevant burghs holding Common Good assets. That register formed the basis for the separate required identification of Common Good assets and was used for many years for accounting purposes. The work undertaken and to be undertaken to comply with current legislation involves detailed investigations of historic title deeds and related supporting documents such as the Burgh Charters and other information held in historic Council Minutes and Archives to confirm the accuracy of the existing Common Good asset registers held by the Council and to adjust or update the registers as necessary.

Work on the four remaining burghs in Angus for which Common Good assets are held is being progressed with a view to further reports being submitted to Committee as work on these is completed. Work on the Brechin List is now substantially progressed, and we anticipate that the completed draft List will be submitted to the November Communities Committee shortly for authority to proceed with the publication of a draft List for inclusion in the Register. As with the other Burghs the Draft List to be published will update and develop the working Register Lists which have formed the basis for the Council's actings with its Common Good assets for a considerable number of years. Work on lists for the other burghs that hold heritable property (Forfar, Kirriemuir and Montrose) has still to be properly commenced, although where work has arisen in relation to separate queries about any of these areas, notes have been kept for the purposes of the Common Good Register.

5. CONSULTATION

The updated List of Common Good land and buildings for Arbroath was published by the Council on 31 January 2023 for a period of twelve weeks until 27 April 2023. Additionally the Notice and accompanying List was available online on the Council's website and on the Tellmesotland government website as well as being available in paper form at Arbroath Library during normal opening times. The Notice was also published on social media including the Council's Facebook page on 7 and 27 February 2023.

Following publication of the List, local elected members for Arbroath, and Arbroath Community Council were consulted and through our Communities Officer eleven local community bodies, Dundee and Angus College, and local schools were contacted and given the opportunity to comment and lodge any representations if desired.

In response to the Consultation two representations, one on behalf of Arbroath and Montrose Scouts, and one by a member of Arbroath Library Staff were received, neither of which impact upon the inclusion or otherwise of the land and buildings in the Common Good Register. As set out in Appendix 1 the representation from the Library Staff Member, although helpful, does not impact materially on the Asset List for Arbroath as it relates to a grammatical correction of text for Arbroath Library which is declared not to be a Common Good asset. The representation on behalf of the Scouts relates to the operational use of Keptie Pond and is a matter for and has been referred to the Service with whom operational responsibility lies. The response from the Scouts actually seeks to further the community use of the Common Good asset. Section 102 (7) of the 2015 Act indicates that representations may be made regarding whether a property proposed to be included in the Register is part of the Common Good or may identify other property which the body or person considers is part of the Common Good. The Statutory Guidance refers to persons having an opportunity to make a case for property to be included or excluded from the register. Neither of these is therefore a valid representation requiring further consideration in relation to the adoption of the Arbroath Common Good Asset Register.

As advised in Report No. 190/21 the published Consultation List included properties which had been determined not to form part of the Common Good. These were Arbroath Library which had been the subject of a number of previous reports on its status, including an Opinion from Senior Counsel, and Arbroath Access Office (former Old Parish Church) Kirk Square but not including the Steeple, Clock and Bells which are part of the Common Good.

6. PROPOSALS

The Council now requires to finalise the List of Properties to be included in the published Arbroath Common Good Register. As no representations have been received which impact on the composition of the Register, the Committee is free to proceed with the adoption of the Arbroath Common Good Property List. Section 102(8) of the 2015 Act requires the local authority to make arrangements to enable members of the public to inspect free of charge its Common Good register at reasonable times and at such places as the authority may determine. The register must also be available to members of the public on a website or by other electronic means.

The Committee is invited :-

- (i) to note the responses received to the consultation as detailed in Appendix 1;
- (ii) to note that the responses do not require any addition to or deletion from the published draft Register as detailed in paragraph 5 above;
- (iii) to note that the response on behalf of the Arbroath and Montrose Scouts supports the retention of Keptie Park and Pond as part of the Common Good as an asset for the whole community and will be published along with the Register for Arbroath as required by the legislation, notwithstanding that it does not relate to any proposed addition to or deletion from the Register List of Properties;
- (iv) to note that the response regarding Arbroath Library relates to a property which is not Common Good and will not therefore be included in the final Register;
- (v) to adopt the List of Land and Buildings detailed in Appendix 2 as part of the assets of the Common Good of the former Royal Burgh of Arbroath; and
- (vi) to publish the List in accordance with the legislation and the Statutory Guidance.

The Committee is also asked to note progress with the compilation of, and consultation on, a publicly accessible register of Common Good property assets for the remaining Angus burghs of Brechin, Forfar, Kirriemuir and Montrose.

7. FINANCIAL IMPLICATIONS

There are no additional financial implications arising from the recommendations in this report. Appendix 3 notes two assets which require to be included in the Council's General Fund rather than the Common Good. Arbroath Library has already been transferred from the Common Good to the General Fund and the Access Office, Kirk Square will be transferred to the General Fund with effect from 1 April 2023 in line with the Council's accounting policies for such matters. The General Fund will be liable for any running costs associated with these assets but would also receive any proceeds from the lease or sale of these assets should such a course of action be approved by elected members.

In relation to the costs of preparing, consulting and publishing the Register of Arbroath Common Good assets Report 190/21 considered by the Policy and Resources Committee on 8 June 2021 comprehensively detailed the costs in terms of officer time and these remain unchanged.

8. EQUALITY IMPACT ASSESSMENT

No new Equality Impact Assessment is required. An Equality Impact Assessment was carried out and attached as Appendix 3 to Report No 190/21.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No 315/18 submitted to Policy and Resources Committee on 9 October 2018
- Report No 190/21 submitted to Policy and Resources Committee on 8 June 2021
- Report No. 222/22 submitted to Policy and Resources Committee on 30 August 2022

REPORT AUTHOR: Andrew Wyse, Solicitor, Legal Team 2

EMAIL DETAILS: LEGDEM@angus.gov.uk

Responses to Consultation

Date	Name	Representation received	Council Response
09/02/2023	Arbroath & Montrose Scouts	I have read the updated list of Arbroath Common Good Land and Buildings. On behalf of Arbroath and Montrose District Scouts we feel that activities such as canoeing, kayaking, paddle boarding and rafting permitted under Outdoor Access legislation contained in the Land Reform (Scotland) Act 2003 should be allowed on the pond as the definition is listed as "boating pond". Currently an un-elected group (Keptie Friends) are preventing not just the Scouts but any member of the public accessing the pond for recreational purposes. I / We believe that the pond should remain an asset for the whole community not for exclusive use of one group and that the status of Keptie Pond and Park including Keptie Boating Pond should remain as defined in the published list of Common Good	Response - Noted that the respondent supports the entry in the draft Register and in particular the description attributed to the property. "Common Good" relates in general terms to the benefit to the community of the burgh and does not distinguish individual activities such as those identified by the respondent. The inclusion of the property in the Common Good register results in the property being retained for the benefit of the whole inhabitants of the former burgh. What the respondent is seeking is an operational matter which has been referred to the relevant Council Department.
	Arbroath Library Staff Member	The entry about Arbroath Library - should that read behalf - also is it not 1889? "Gifted to the Town Council in 1989 for the use and behoof of the community the Library was for several decades deemed to be part of the Arbroath Common Good."	Response - agreed that "1989" is a typing error and should be "1898" which is the year of recording of the Disposition in favour of the Council; "Behoof" is the ancient word for "behalf" and is taken directly from the Disposition of 1898.

APPENDIX 2

Ref. No.	Name of Asset	Location	Description	Relevant History
A.1	Abbey Green Park, Stanley Street, Arbroath DD11 1HQ	On the south west of Stanley Street and accessed by footpath from Abbey Park to Stanley Street Easting 364403.3 Northing 741290.3	0.56 ha of ground adjoining south east side of Abbey Bowling Green encompassing enclosed grassed parkland with play area	Historically part of Kevan Kirkyard (otherwise Abbey Green) linked to St Thomas's or Abbey Church (now ruins) the park is owned by the Council as successor local authority under the Burgh Charter of the Royal Burgh of Arbroath of 1599 most recently in terms of the Local Government (Scotland) Act 1973 and the Local Government etc (Scotland) Act 1994 and subordinate legislation
A.2	Abbey Bowling Club, Walker Place Arbroath DD11 1HQ	Lying on the southwest of Walker Place, south east of the Abbey Burial ground and north east of Arbroath Abbey Easting 364373 Northing 741337	4995 square metres of land comprising two bowling greens with Pavilion and ancillary buildings on northwest lying adjacent to Abbey Burial Ground	Following upon earlier leases now leased to Trustees of Abbey Bowling Club under lease for 99 years from 17 November 2001 to 16 th November 2100 and registered under Title Number ANG18473 to be used as a bowling green available to members of the public on reasonable terms charges and conditions. The Council owns the property on its Common Good Account in terms of a Notice of Title of 2002
A.3	Abbey Burial Ground DD11 1HQ	Lying to the north of Arbroath Abbey and entered from Hamilton Green	Historical graveyard extending to approximately 1 hectare dating back to the 12 th century, adjoining the Abbey ruins on their northwest side	The Council is considered to own the Burial Ground by virtue of the Charter of Arbroath granted by King James VI executed at Holyrood on 23 November 1599 and Notice of Title in favour of Angus Council recorded in the General Register of Sasines on 22 October 2008 the graveyard having been established for the benefit of the community of local inhabitants which became the Burgh by virtue of the Charter and as such is considered to be inalienable Common Good.
A.4	Arbroath Golf Course	Located to the south of and entered from the A92 Elliot roundabout Easting 361651.2	18 hole golf course established on Elliot Links and bounded on its south east side by the East Coast railway line separating it from other parts of Elliot Links. Ancillary to the golf course are the offices and Professional's shop, driving range,	The golf course forms the major part of 96.071 acres of land sold by the Earl of Dalhousie to the Provost Magistrates and Councillors of the burgh of Arbroath as Trustees for the Community of the Burgh in February 1906 subject to a number of detailed title conditions including a restriction that the land is held for the use and behoof of the Community of the Burgh and for the purpose of playing the game of golf ; that the Council cannot "alienate"(dispose of) the lands or

		<p>Northing 739057.9</p>	<p>clubhouse carpark, greenkeeper's building and other accommodation</p>	<p>burden the lands with debt; and that the management of the Links will be by a Committee of Management of eight members, four being chosen by the Council from their own number and the other four chosen by the established Golf Clubs and subject to Rules and Regulations approved by the Council. The course was initially managed by the Arbroath Golf Course Committee under an Agreement in 2014 covering the course and its environs including the offices, Professional's shop, driving range, clubhouse carpark, greenkeeper's and ancillary buildings. The dog walkers' car park and access road are expressly excluded. In 2016 the Committee assigned their rights under the Agreement to Arbroath Golf Links Limited a company limited by Guarantee of which the Council is an initial member. Although the Disposition in favour of the Burgh Council refers to the Council being trustees for the community this terminology is regularly used in Common Good titles and there is no external trustee only the Council. Additionally other than golf related usage, public recreation is also preserved. The golf course is therefore considered to be inalienable Common Good</p>
A.5	<p>Boulzie Hill (Part of Springfield Park)</p>	<p>Accessed on its west and south west from Hill Road and Hill Place. Linked on the north east to Springfield Park and to Victoria Park on the south east,</p> <p>Easting 364604.1 Northing 740893.8</p>	<p>Boulzie Hill /Springfield Park includes a walled formal garden area and pathways through recreational grassed lands forming part of the larger recreational open space area including Springfield and Victoria Parks and sloping down to Kings Drive adjacent to the seashore</p>	<p>The Council's title to the property rests on a Sasine in favour of the Magistrates and Town Council of Aberbrothock (now Arbroath) recorded in the Register of Sasines. Reversions etc for the Burgh of Aberbrothock on 10th April 1844 in which it is described as the Boulzie Hill Hanging Brae and arable land. The title rests in name of the Burgh Councillors in name of and as representing the whole body and community of the burgh. Having regard to its retention as recreational open space the land is considered to be inalienable Common Good</p>
A.6	<p>Cairnie Loan Rest Gardens</p>	<p>Situated adjacent to the east corner of Cairnie Loan and Cairnie street junction</p> <p>Easting 364000.7 Northing 740388.3</p>	<p>Formally landscaped garden area extending to 0.15ha laid mainly in grass with shrubbed strips adjoining public paths through the area augmented by seating and mature planting and trees</p>	<p>Sold by T.R. Grant & Son, Plumbers Arbroath to the Provost Magistrates and Councillors for Royal Burgh of Arbroath in return for payment of an annual feuduty of £5 3s 1d by Feu Contract recorded 16 November 1939 which imposed an obligation on the Burgh Council that the area of ground be used only as a Public Rest Garden and for no other purpose with an express prohibition on any building other than a shelter or summerhouse and on any trade or business, and anything</p>

			sheltering the area from the rear of houses in Kinnaird Street	which might create a nuisance. Arbroath Improvement Trust were involved in the establishment and preservation of the Rest Gardens for the benefit of the local community and in recognition of the public community purpose for which the land had been sold originally to the Burgh Council the Council formally confirmed the appropriation of the Gardens to its Common Good account on 18 April 2018
A.7	Centenary Bas Relief Memorial	Hamilton Green/Abbey Street	Bronze sculpture on stone plinth depicting the history and heritage of Arbroath celebrating the 700 th Anniversary in 2020 of the Declaration of Arbroath set in a 40 square metre semi-circular open space area with public seating; the Bas Relief and related improvements to the open space were completed in November 2019	The Sculpture was gifted to the people of Arbroath by Arbroath Guildry Incorporation and erected on a public open space site forming part of property sold to the Burgh Police Commissioners in 1880 to effect improvements to streets. The Street improvements formed part of the now adopted roads and footpaths of central Arbroath with the open space area described having become part of the common good of the burgh and now falling to be included in the Common Good Register as part of the Common Good assets including the Bas Relief Sculpture donated for the benefit of the residents of Arbroath
A.8	Carnegie Park (also known as Hayswell Park)	Situated on the northeast side of Carnegie Street, south east side of Strachan Street, and south west side of Hayshead Road Easting 364586.6 Northing 741570.7	Rectangular-shaped Park laid out in cultivated grass with mature trees and enclosed on its roadside boundaries with hedging, criss-crossed with access pathways.	Gifted in two parts by Claud C S Carnegie to the Provost Magistrates and Councillors of the Royal Burgh of Aberbrothock in 1886 and 1921 respectively “for behoof of and as representing the whole body and Community of the said Burgh” and containing title conditions restricting the use to that of a Public Park or pleasure ground, prohibiting the erection of buildings except so far as necessary for the use and enjoyment of the Park, and prohibiting the sale or disposal of the ground. Having regard to the nature of the gift and its retained use as a Public Park the Park is considered to be inalienable Common Good
A.9	Ground at East Grimsby (Snack Bar Site)	Situated on the east side of East Grimsby adjoining the former Lifeboat House property now commercial premises Easting 364202.1 Northing 739057.9	Tarmacadamed area on the west side of the Brothock Water adjacent to the former Lightboat House	The ground is leased for the siting of a mobile snack bar on terms and conditions restricting its use to that of a snack bar. When the then Burgh Council acquired the adjoining former Lifeboat House (subsequently sold in 2004) from the Secretary of State for the Environment in 1971 there was no traceable historic title and this gives weight to the view that the land in this area was part of the original street of East Grimsby and its environs subsequently re-aligned when Burnside Drive was constructed. As such it is considered to be owned by the Council as a part of the Common Good of the former Burgh in terms of the Arbroath Burgh Charter of 1599 as recorded by the Notice

				of Title registered by the Council in the General Register of Sasines on 22 October 2008
A.10	Elliot Links Parkland	<p>Accessed off A92 Dundee Road at the Elliot Roundabout and with vehicle access past the golf clubhouse and buildings to a public car park on the south of the driving range and then following pathways to the shoreside links.</p> <p>Easting 362180.9 Northing 739456.2</p>	Traditional sea shore links between the railway line and the sea adjoins the site of the former Dowrie Works, now predominantly integrated with the Links but not part of the Arbroath Common Good asset.	In September 1971 the Provost Magistrates and Councillors purchased from the Trustees of C W Harrison for £3000 parcels of land on both sides of the railway line extending to 46.85 acres. The land on the other side of the railway line is partly included with the golf course as car park ancillary buildings and golf range and part was acquired for the construction of the Elliot roundabout and upgrading and realignment of the A92. The land acquired by the Burgh from the Harrison Trustees was not acquired for any express statutory purpose and therefore falls within the definition of Common Good. This was subsequently confirmed formally by the Council on 17 April 2014 by transfer of this asset from the Council's General Fund to the Arbroath Common Good Account .
A.11	High Common	Situated on south east side of the Dundee Aberdeen main railway line	5.3 hectares of sloping parkland with substantial War Memorial celebrating the fallen of two world wars sitting in paved and planted surroundings	Part of the various commons comprising High and Low Commons, Infirmary Brae Parks and West Common (including former Cricket Common) . The Council's title to the "Commons" is the Royal Burgh Charter of Arbroath of 1599, they being believed to have been used for public purposes from medieval times. The only formally registered title to the West Common Parkland is the Notice of Title registered by the Council in the General Register of Sasines on 22 October 2008
A.12	Inchcape Park	<p>Ladyloan DD11 1PW</p> <p>Easting 364000.7 Northing 740388.3</p>	Lying to south of the former Old Ladyloan School latterly a private Nursery school and extending from the east side of Gayfield Park football stadium along the shoreline north eastwards to Signal Tower Museum (excluding the Pumping Station) laid out as cultivated flat grassland	The south eastern section of Inchcape park adjoining Gayfield Football Stadium formerly a car park for the Stadium was acquired by the Trustees of Alexander Cargill in accordance with his will and in 1957 his Trustee transferred the land and other funds to the Provost Magistrates and Councillors of the Burgh to be held on behalf of the Community of Arbroath and used for recreational or amenity purposes. The Disposition also included lands at Stoneycroft, Ladyloan which were formerly garages and land known as the Arbroath Rope Works and contains a title condition requiring the whole lands to be used by the community of the burgh. This section meets all the criteria for inalienable Common Good, In 1934 the Burgh purchased 4.114 acres of ground from the London Midland and Scottish Railway Company under the Housing (Scotland)

				Acts 1925 and 1930 extending generally northwards from the lands acquired by A Cargill's Trustees to the land now occupied by the Signal Tower Museum. This area includes the Pumping Station and was cleared for recreational purposes complimenting the project promoted by the Cargill Trustees. the land has therefore been open recreational space incorporated within the Inchcape Park for decades and in recognition of this the Council formally appropriated this section of the Park into the Arbroath Common Good Fund at its Meeting on 13 December 2012 as confirmed by Deed of Appropriation dated 17 April 2014
A.13	Inchcape Park Scottish Water underground storage tanks	Located in land on the south side of Ladyloan surrounding a Pumping station owned by Scottish Water Easting 363976 Northing 740309	This central section of Inchcape Park is an area of flat grassed parkland surrounding the Pumping station with a north west boundary extending along Lady Loan for 116 metres	The Pumping station was sold by Angus District Council to Tayside Regional Council in 1991 and ownership passed to North of Scotland Water Authority in 1995, then to Scottish Water in 2002. Its site is thereby excluded from the Common Good asset. In exchange for a lease of land extending to 7030 square metres surrounding the pumping station for a capitalised rental sum of £10,000 in 1999 the Council granted a 99 year lease to the Water Authority for inter alia underground tanks. The lease contains conditions including a requirement that the Council will maintain the surface and that the public will have free and unrestricted access to the reasonable satisfaction of the Council excepting any buildings and equipment. This residual ownership of this land thereby rests ultimately in the Common Good subject to the lease.
A.14	Infirmary Brae Park	Bounded on the west by Dundee Road, on north east by B964/Rosemount Road separating the park from Arbroath Infirmary and by the railway on the south east Easting 363356.1 Northing 740358	Triangular area of cultivated grassland measuring approximately 4300 square metres with 45 Commando Memorial Garden as its centrepiece	This small area of parkland is considered to be part of the swath of land historically comprising the various "Commons" which adjoin it – High Common, Cannon/ Low Common, West (Cricket) Common. A pathway at the east corner of the Park leads over the railway line to the High Common. The ownership of the Commons including Infirmary Brae Park is vested in the Council from the Arbroath Royal Burgh Charter of 1599 to which the Council recorded Notice of Title on 22 October 2002

A.15	Keptie Loch and Park including Keptie Boating Pond DD11 2BB	<p>Located on the north east side of Nolt Loan Road and south side of Keptie Road</p> <p>Easting 363447 Northing 740791.6</p>	<p>13 acres of parkland formally landscaped in grass with wild flowers and mature trees and with recreational walkways interspersed with seating, surrounding a "loch" originally an open area skating pond in 1880s subsequently created as a boating pond, with central island of mature trees</p>	<p>Purchased in 1937 for £1000 from the Trustees or Patrons of Mr John Colvill's Mortification by the Provost Magistrates and Councillors of the Royal Burgh of Arbroath the 13 acres of parkland were not acquired for any specific statutory purpose and were retained in use as recreational open space as part of the Common Good of the burgh. On its northeast and east side the Common Good parkland extends only to and includes the footpath leading to the north side of the Water Tower and excludes the Water Tower and related surrounding land which by contrast were originally held by the Burgh Council and their predecessors in their capacity as the statutory water authority</p>
A.16	MacDonald Park	<p>Lochlands Drive DD11 3BZ</p> <p>Easting 363388.9 Northing 741085.7</p>	<p>Both formal and informal recreational grassland with bowling club green and premises, and playground area in the northern section, football pitch and flat grassed area bordered by amenity trees on the east side of Lochlands Drive</p>	<p>Purchased for £50.00 in 1947 from the Testamentary Trustees of the late Frederick Fotheringham Macdonald of Lochlands Arbroath the Provost Magistrates and Councillors of the Royal Burgh of Arbroath acquired some 9 acres 1 rood 11 square poles and 23 2/3 square yards of ground known commonly as Lochlands Coup. The land purchased was not acquired for any specific statutory purpose and was developed and used for recreational purposes subject to a title condition requiring it to be known as the Macdonald Park. The Title includes the solum of the adjoining Lochlands Drive and a strip of ground on the western side of Lochlands Drive including Lochlands Wood and the lockup and parking area opposite the park. Having regard to the nature of the acquisition of the land and the subsequent use for community purposes it is considered that the land has become inalienable Common Good.</p>
A.17	Lochlands Bowling Green	<p>Lochlands Drive DD11 3BZ</p> <p>Easting 363380 Northing 741211.9</p>	<p>Situated within and at the northwestern corner of Macdonald Park and adjoining the eastern side of Lochlands Drive</p>	<p>Along with the Club Premises included in Lease to Trustees of Lochlands Bowling Club registered In the Books of Council and Session on 15 October 2009 for 21 years to 24 April 2028 of 2407.7 square metres of ground forming part of MacDonald Park (formerly known as Lochlands Coup), Use restricted to Bowling Green and ancillary purposes. Contains usual maintenance obligations and restrictions on nuisance etc</p>

A.18	Lochlands Bowling Club Premises	Lochlands Drive DD11 3BZ Easting 363380 Northing 741211.9	Located at the eastern side of the Bowling Green	As stated in immediately preceding entry the premises are incorporated in the Lease to the Trustees of Lochlands Bowling Club registered in 2009
A.19	Steeple Bells and Clock, adjoining former Old Parish Church	Kirk Square DD11 1EQ Easting 364403.5 Northing 741040.8	Situated at the south west corner of the original Old Parish Church, the remainder of which was destroyed by fire in November 1282	Arbroath Parish Church and Manse Scheme and Order of 23 April 1931 expressly set out the division of responsibilities between the Old Parish Church and Manse transferred to and owned by the Church of Scotland General Trustees, and the Steeple Bells and Clock which remained in the ownership of the Burgh Council and thus are inalienable Common Good, their use remaining the same original use after transfer to Angus District Council and later to Angus Council
A.20	Rosemount Road Car Park	Rosemount Road DD11 1QH Easting 363470.2 Northing 74045.3	Free short stay car park with 39 spaces on south east side of Rosemount Road opposite Arbroath Infirmary complex	Along with the Rosemount Road parkland considered to be part of the swath of land historically comprising the various "Commons" the ownership of the Commons including Rosemount Road Car Park is vested in the Council from the Arbroath Royal Burgh Charter of 1599. Its continued use for public purposes throughout the subsequent period including its transformation into a car park render it part of the inalienable Common Good
A.21	Rosemount Road Park	Rosemount Road DD11 1QH Easting 363475.4 Northing 740464	Cultivated grassland surrounding the car park on three sides with mature trees along its borders bounded on the north east by Alexandra Place and railway line on south east	Considered to be part of the swath of land historically comprising the various "Commons" and separated from the High Common by the railway line which the park adjoins. The ownership of the Commons including Infirmary Brae Park is vested in the Council from the Arbroath Royal Burgh Charter of 1599. Its continued use for public purposes throughout the subsequent period as public recreational parkland render it part of the inalienable Common Good
A.22	Springfield Park (See also Boulzie Hill above)	Lying to the south of Clyde Court and Cliffrun Road Easting 364756.6 Northing 741098.5	including the open space area of Ponderlaw, and Springfield Wood part of the Angus Millenium Forest, Springfield Park is part of a network of linked open space bordering with Boulzie Hill and	In 1929 the Provost Magistrates and Councillors of the Burgh of Arbroath at a price of £3000 purchased from William Greig the lands and estate of Springfield and others and also land lying Ponderlawfield. No title conditions are specified or referred to and the Council is not stated to have acquired the lands for any specific statutory purpose. The lands have continued to be used for a public community purpose

			Victoria Park Springfield and Boulzie together extending to approximately 10 hectares	and currently a network of footpaths and accesses link Ponderlaw, Boulzie Hill with Springfield to Victoria Park to the south and southeast. Having regard to the continued public and community use over a significant period of time it is considered that the lands are inalienable Common Good.
A.23	Victoria Park	Lies at northern end of the town adjacent to the coastline. Sits mainly to the north-west and north of Kings Drive Easting 365417.3 Northing 741243.4	Open parkland and beach for both informal and formal recreation with on-street and off-street parking on Kings Drive. The historical site of Ninians Well lies at the east end of the parkland	Part of the East Links acquired for less than market value in 1897 to set up Victoria Park celebrating the 60 th anniversary of the queen. Restricted use title conditions apply. Acquired for behoof of and as representing the whole body and community of the Burgh.
A.24	Victoria Park – Ruxton memorial	Adjoining the south east of Edradour Gardens opposite Harry Nicoll Gardens at a bend in the road to the Cliff Walk pathway the memorial lies opposite the north western entrance to Victoria Park Easting 365256 Northing 741283	The Memorial sits centrally on a rectangular plinth adjoining the coast walk path and was moved to its current location in 1926 from Kirk Square The memorial itself is a rectangular structure with four circular pillars supporting a rectangular roof topped with a global finial	When the Memorial was moved to this location from Kirk Square in 1926 the site was part of the coastal path along the edge of Victoria Park and part of fields belonging to the Patrons of John Carmichael's Mortification, eight acres of which were sold to the Provost Magistrates and Councillors of the Burgh of Arbroath in 1937 by Disposition recorded in the General Register of Sasines on 22 December 1937 and subsequently sold by the Council for private residential development. Victoria Park and the Memorial itself are part of the Arbroath Common Good Fund and the Council supplemented this by appropriating the ground to the Common Good Fund on 17 April 2014, the site having been used for a public community purpose since the relocation of the Memorial in 1926
A.25	Webster Memorial Theatre	64 High Street Arbroath DD11 1AW Easting 364343.2 Northing 740821.2	Traditional Theatre Building on the west side of High Street in centre of Arbroath	In 1918 the Arbroath Public Building Company Limited in liquidation and its Liquidator with the consent of Francis William and James Webster who wished to gift the public hall buildings to the Provost Magistrates and Councillors of the Royal Burgh of Aberbrothock or Arbroath for behoof of the community of Arbroath and who paid £2500 to the liquidator, by Disposition recorded on 16 December 1918 transferred the property to the Council "for behoof of the Rommunity of Arbroath". Several restrictions were imposed in the title including a burden that the

				<p>property transferred shall be treated and dealt with as part of the Common Good of the Burgh as presently vested in the Provost Magistrates and Councillors and specific requirements regarding the use and the name of the property.</p> <p>Consequently in 1919 the Burgh Council as Trustees of the Arbroath Museum Society assigned to the Provost Magistrates and Councillors of the Royal Burgh of Aberbrothock or Arbroath “on behalf of the Community thereof” the large hall forming the upper storey of the back jamb of the building. This Assignment was formalised by recording a Notarial Instrument in the Property Registers on 11 March 1919</p>
A.26	West Common Parkland	Dundee Road	Open cultivated grassland surrounded with tree'd and planted borders on its west south west and south east boundaries housing a Monument and sculpture celebrating the Declaration of Arbroath, and extending north wards to the rear of properties on Monkbarns Drive	Part of the various commons comprising High and Low Commons, Infirmary Brae Parks and West Common (including former Cricket Common) . The Council's title to the “Commons” is the Royal Burgh Charter of Arbroath of 1599, they being believed to have been used for public purposes from medieval times. The only formally registered title to the West Common Parkland is the Notice of Title registered by the Council in the General Register of Sasines on 22 October 2008
A.27	West Links	<p>Situated on the south east of Dundee Road and the east coast main railway line</p> <p>Easting 364403.3 Northing 741290.3</p>	Open recreational parkland formerly known as Hospitalfield Links Park bounded on the northwest by the railway line and the southeast by the North Sea separated from West Links (Cannon Common) Amenities by the slipway included in its title	Hospital Links Parks purchased in 1929 by the Provost Magistrates and Councillors of the Burgh from the Trustees of Patrick Allan Fraser for £1400 including the related salmon fishings with reservations of access to the foreshore – there being no expressly specified statutory purpose and the original recreational use as Public Parks having remained, the property is inalienable Common Good. Additionally, the major part of the parkland extending to 9.94 hectares is included within a Queen Elizabeth Fields in Trust Agreement.
A.28	West Links (Cannon or Low Common) Amenities	<p>Queen's Drive DD11 1QD situated to the east of West Links</p> <p>Easting 363254 Northing 740148</p>	Over 2 hectares of land developed for formal Recreation with fun park offering playground activities, paddling pool, crazy golf, and outdoor tennis courts	Historically known as Cannon Common and part of the various commons comprising High and Low Commons, Infirmary Brae Parks and West Common (including former Cricket Common) . The Council's title to the “Commons” is the Royal Burgh Charter of Arbroath of 1599, they being believed to have been used for public purposes from medieval times. The Disposition of 0.384 acres of former railway line by the Caledonian Railway Company and the North British Railway Company to the Provost Magistrates and Councillors of the Royal

				<p>Burgh of Arbroath in 1921 at a price of £25 is granted to them as “representing the community of the said burgh” and refers to the strip of land being bounded by the Low or Cannon Common belonging to the Community thereof. Accordingly the land is Common Good and having been retained for public use by the local community albeit involving various types of formal recreational use is arguably inalienable</p>
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ARBROATH COMMON GOOD ASSETS - List of Properties investigated and found not to be Common Good

**N.B. this section is included in respect of the references in the Committee Report but will not appear in the final published List.
Property previously confirmed as Common Good but transferred/ to be transferred to Angus Council General Fund**

	Arbroath Library	Hill Terrace Arbroath DD11 1AH	Traditional stonebuilt Listed Building on corner of Academy Street and Hill Terrace set in own landscaped grounds with central statue of Robert Burns, the library incorporates an IT suite, childrens area and art gallery	Gifted to the Town Council in 1898 for the use and behoof of the community the Library was for several decades deemed to be part of the Arbroath Common Good. The Disposition and Deed of Gift states that a former Provost David Corsar desires to promote the moral and intellectual wellbeing of the inhabitants of the town by the establishment of a free public library , reading room and picture gallery. It also refers to the old high school of Arbroath, the Arbroath Academy originally erected by public subscription being offered for sale and David Corsar being prepared to purchase it and surrounding ground and carry out alterations and improvements to form a Public library, reading room and picture gallery and transfer it to the Council as a gift for use of the community of Arbroath. This was conditional on the Council agreeing to adopt the Public Libraries Consolidation (Scotland) Act 1887 which the Council duly did by Resolution dated 8 October 1896. The property was subsequently transferred to the Council for behoof of the community of the burgh. Because of that narrative successive Councils considered the property to be an asset of the Arbroath Common Good Fund until the position was re-assessed in 2010 and subsequent years as part of a review of Common Good, including public consultation. Having taken advice from our external auditors and from senior legal counsel, the Council agreed that as set out in the Deed of Gift the Council had exercised statutory powers under the Public Libraries legislation as amended and updated and had continued to use the buildings for that statutory purpose throughout to the present day. The exercise of that statutory power thereby precluded the property from being part of the Common Good and the Library buildings have been taken back into the Council's General Fund
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	<p>Access Office, Kirk Square</p>	<p>Corner of Kirk Square, at junction with West Abbey Street, Academy Street and Hill Place, Arbroath DD11 1EQ</p>	<p>Traditional stone-built ecclesiastical building formerly Arbroath Old Parish Church but excluding the Steeple, Bells and Clock already owned by the Council as successors to the burgh and forming part of the inalienable common good of the burgh</p>	<p>Purchased (price £35,000) by Angus District Council from the Church of Scotland General Trustees by Feu Disposition recorded General Register of Sasines for Angus 14 April 1992 therefore post 15 May 1975 and not Burgh Common Good as the property was never owned by the Burgh Council Arbroath Parish Church and Manse Scheme and Order of 23 April 1931 expressly set out the division of responsibilities with the Church and Manse (excepting the Steeple Bells and Clock) being transferred to and owned by the Church of Scotland General Trustees. Any use of Common Good Fund moneys by the District Council does not of itself render the property a Common Good property. On satisfactory completion of this consultation process the property will be transferred to Angus Council General Fund</p>
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