

Answers Lodged by Kinross Community Council

in response to the petition
by Perth & Kinross Council
for Authority to Alienate Subjects Forming Part of the Common Good know as and forming
Kinross Town Hall and the Kinross Carnegie Free Library

Numbers correspond with numbered paragraphs on the Petitioner's application under the heading **Condescendence**

2. Kinross Community Council (KCC) objects to the Petitioner's wish to sell the subjects known as Kinross Town Hall and Kinross Carnegie Free Library.
3. It is the view of KCC that the Whole Subjects, including the Carnegie Library, form part of the Common Good of the former Burgh of Kinross.
4. KCC agrees with the Petitioner that the Town Hall forms part of the Common Good of the former Burgh of Kinross.
The Town Hall was built by the Kinross Market Company in 1841 and handed over "as a Free Gift to Kinross Burgh" (Town Hall deeds) in 1945 "in memory of the Men and Women of Kinross who fell and in grateful recognition of all who served in the Second World War 1939-1945" (commemorative plaque on the Town Hall). The Town Hall deeds stipulate that "... the said buildings and Fountain be held by the Provost Magistrates and Councillors of Kinross in perpetuity for behoof of the inhabitants of the Burgh ..." and that "... the said Provost Magistrates and Councillors have undertaken as by their acceptance hereof they undertake and bind themselves and their successors in office to hold the said buildings and fountain being the subjects hereinafter disposed in perpetuity for behoof of the inhabitants of the Burgh of Kinross ..."
11. The Minute of Agreement (Ref D) was recorded in the Books of Council and Session and was referred to in all the Library Dispositions. It is clear from the Dispositions (Ref E1, E2 and E3) that the land and properties were transferred to Robert Cumming and others in order that they might carry out the purposes outlined in the Minute of Agreement.
12. We have been unable to find any legislation which states that a building conveyed for a statutory purpose precludes it from the Common Good. Does such legislation exist? The Minute of Agreement (Ref D) states that "the Library, Reading room, Museum and Recreation Room, hereinafter referred to as the Library, shall be upheld in all time coming for behoof of the whole inhabitants of the Town and Parish of Kinross ..." and "... the building shall belong in all time coming to the inhabitants of the said Town and Parish." To Kinross Community Council, it seems clear from this wording that it was intended that the Carnegie Library should belong to the Common Good. The use of the building for educational and recreational purposes over the best part of a century has led the local community to expect these benefits. Even if the use of the building to

provide a statutory service (i.e. a library) somehow precludes it from being in the Common Good, we should like to point out that only part of this building (approximately one third) was used as a library. The building also provided, at times, a Museum and Recreation Room. By virtue of these other uses of the Carnegie building, we suggest that it is part of the common good.

13. The public has been prevented from using the Town Hall because P&KC closed the building in January 2002.

Contrary to what the petitioner says, the Social Work Department office housed in Kinross Town Hall complex was **not closed** in 1996. The newly formed Perth & Kinross Council chose to move the department to different accommodation in Kinross (a former doctors' surgery), a few yards away from the Town Hall.

The Town Hall is not "surplus to requirements" in the sense of not being needed any more. The building was well used by a variety of community organisations prior to closure and a group (the Kinross Town Hall Association) was actively pursuing plans to refurbish the buildings to provide for modern day needs.

A number of maintenance problems had been uncovered during Autumn 2001. The Chief Executive of P&KC asked for a report on the state of the building. The Town Hall was then declared "surplus to requirements" at a meeting of P&KC's Strategic Policy and Resources Committee (Ref L) on 27 February 2002 on the basis of the report. The report said that over £100,000 had been spent on essential works in the preceding five years but that the state of the Town Hall continued to deteriorate and the estimated maintenance backlog would cost an estimated £450,000. The report recommended disposal of the building in its current condition as representing "Best Value" in the management of the building. Although an amendment to the motion was put forward, suggesting an investigation be undertaken to fully examine possible options and carry out a full consultation process with all Community Councils and other relevant bodies, P&KC voted for disposal. The report to the Strategic Policy and Resources Committee had been partially informed by a Building Survey report dated 12 October 2001 (Ref M) by Bell Ingram. This report was merely an update of a full survey carried out seven years earlier (original report dated 27 January 1995). The update admits "at this time, anticipated costings are to be based on the surveyor's experience, rather than a full quantity surveying exercise". It is shocking that the decision to dispose of a historic B Listed building in the heart of a conservation area should be based on little more than rough guesswork by a surveyor, rather than a fully costed appraisal, wider consultation and consideration of all options.

In 1996 P&KC had encouraged the formation of a local community management committee to take over Kinross Town Hall and in 1997 Kinross Town Hall Association (KTHA) was formed. The agreement between P&KC and KTHA was as follows: KTHA would consult widely with the local community to establish the facilities required by the community from the Town Hall and Library buildings. KTHA would apply to charitable trusts etc to raise funds to implement internal structural changes to reconfigure the accommodation for modern needs. P&KC's obligation was to maintain the basic fabric of the building. On completion of the works, KTHA would lease the building from P&KC. The original estimates for the costs involved were made by P&KC and proved to be totally inadequate. The volunteers on KTHA worked for five years obtaining pledges of funding,

commissioning architects' plans, holding many meetings and consultations. Had their plans gone ahead the Town Hall and Library would have provided the following: an enlarged library, refurbished accommodation for a community-run museum, a youth drop-in centre, an office for the local community newsletter, rooms for the local camera club and a refurbished large hall with stage and lesser hall for community group meetings etc. KTHA's plans were defeated by an inability to raise the further sums beyond the original estimates and then P&KC's decision to close the buildings and dispose of them.

KCC totally refutes the notion that the Town Hall is "surplus to requirements". Kinross has a population of approximately 5,000 with dozens of active clubs, groups and societies and Kinross-shire as a whole has a population of approximately 10,000. There are four drama groups alone in the area.

There are some other halls in the town of Kinross:

- The Millbridge Hall, which was built primarily for the use of scout and guide groups.
- The Church Centre, which is a converted church offering some small and medium sized rooms. The main ground floor accommodation is occupied during the day by the "Day Centre" offering activities for elderly people. The upper floor does not have disabled access.
- The Masonic Hall, which comprises a moderately sized hall (maximum 90 people) with kitchen and toilet facilities.
- The Primary and High School assembly halls.

All the above are heavily used and there are times when it is not possible to book suitable accommodation for a meeting or to stage an event. When the Blood Transfusion Unit comes to Kinross, the Brownies, Guides etc give up the accommodation at the Millbridge Hall and often have to cancel their meetings because nowhere else is available. A recent "public" meeting on the NHS 24 Service was held in the upper room of the Church Centre, with posters advertising the meeting confessing that "no disabled access" was available. The local primary and high schools have assembly halls with stages but these are not always available to non-school groups. KCC strongly rejects the statement that "there would be no detriment to the inhabitants of the area should the Town Hall be sold". P&KC has not provided any alternative to the Town Hall since its closure. It is suggested by some that a new "Community High School" which is proposed be built at the northern edge of Kinross will provide replacements facilities for all that has been lost with the closure of the Town Hall and Library. Please see a separate paper (Ref F) for a detailed review of this.

In the legal opinion obtained by P&KC, Professor Paisley states that "the common law and statutory procedures are sufficient to enable the land to be alienated subject to suitable alternative facilities being available within the neighbourhood" (para 2.2, Ref N). Kinross Community Council argues that suitable alternative facilities are not available and will not be made available by any means other than retention and refurbishment of the existing buildings. There is no hall comparable in size to the Town Hall in the centre of Kinross which is available to the general public at all times. There is no site in the centre of Kinross on which a new Town Hall could be built. The proposed new "community" school is still just a proposal. If it does come to fruition, it

is still not a suitable alternative for the reasons outlined in the Supplementary Paper “Replacement Community Facilities” (Ref F).

14. The closure of the Library was forced by the necessity to carry out dry rot treatment in August 2001. P&KC then decided in February 2002 to dispose of the building along with the Town Hall (see above). It is not logical to claim that the Library was “surplus to requirements” when the local authority has still not provided other permanent library accommodation in Kinross. When P&KC ceased providing a library service from the Carnegie library, a mobile van giving very limited service was used for 14 months until a Portakabin was erected next to the County Buildings in October 2002 to provide a “temporary” library until a permanent solution was found. The library service continues to be provided from the Portakabin three years on, and P&KC has recently granted planning consent for it to remain for a further three years. Before the closure of the Carnegie Library, Kinross had the second-highest book borrowing figures in the whole of Perth & Kinross (second only to the figures for the A K Bell Library in Perth), despite the Carnegie Library having only part-time hours (19.5 hours per week). The local Fifty Plus Club organised a “Book of Remembrance” which said “Kinross-shire Public Library. Born 1905, died August 2001. Cause of death: blatant neglect by Perth & Kinross Councillors and Officials”. The Book was signed by 5,200 people. In July 2005, Liz Knowles of P&KC’s library service confirmed that, despite the inadequacies of the Portakabin, book-borrowing figures are still very high in Kinross, confirming a demand for a proper library facility in the area. Regarding the Museum, a local antiquarian, David Marshall, left his historical collection “for behoof of the inhabitants of Kinross” in 1902 with the stipulation that “my said trustees shall not part with the said books and others until they are satisfied that a proper place for their reception has been provided by the said Inhabitants”. It was this bequest which inspired the application to Andrew Carnegie to fund a Museum, Library and Recreation Room in the first place. The museum was housed on the upper floor of the Carnegie building until the 1940s when it was closed for lack of space, as the upper floor was also required as the library’s caretaker’s flat. The Kinross-shire Historical Society campaigned for its re-opening, which occurred in 1975, managed by the newly formed Perth & Kinross District Council. At the next local government reorganisation in 1996, the new Unitary Authority, Perth & Kinross Council, closed the museum. Most of the artefacts were taken to the Art Gallery and Museum in Perth for storage but local groups are very keen that they be returned and displayed locally. A Kinross (Marshall) Museum Trust (Ref HI) was formed in 1996 and, together with the Friends of Kinross Museum group, plans to operate a museum with volunteers when suitable accommodation can be secured. The Friends of Museum group had been active participants in the Kinross Town Hall Association. Under the KTHA plans, accommodation would have been provided for the museum in the former social work department offices under the clock tower. P&KC plans to provide a new library and museum as part of a new community High School. Please see the Supplementary Paper “Replacement Community Facilities” (Ref F) for a detailed review of this.
15. The petitioner claims the deterioration of the building “... occurred despite substantial expenditure by the Petitioner in maintenance”. This “substantial expenditure” is

presumably the £100,000 which P&KC claimed in February 2002 (Minutes of SPR Committee - ref L) to have spent over the preceding five years. The Council had been warned, however, in a report by Bell Ingram Building Surveyors in January 1995, that “a budget cost of £350,000 or thereby” was necessary to “bring the property up to modern standards”. (Ref M). When P&KC made the decision to sell and dispose of the buildings, it had spent less than a third of the amount forecast as necessary by the buildings surveyors. It should not have been surprising that, by February 2002, the estimate of expenditure had been raised to £450,000 in addition to the £100,000 already spent. This was partly due to the discovery of dry rot, but it was by then *seven years* since the original building survey.

On 20 February 2002, KCC held a special, well-attended public meeting to discuss the Town Hall and Library closure. The minutes of that meeting say “Peter Bing [Chief Executive of Perth & Kinross Leisure] confirmed that Perth & Kinross Leisure operated the Town Hall on an arms length basis from the Council. Over several years there had been insufficient funds made available to adequately maintain all P&KC properties, and major problems were now presenting themselves. The funding situation was unlikely to improve, with more resources unlikely to be available. The way forward was for existing budgets to be concentrated on single sites, making use of education budgets where possible.” (Ref R). The minutes also say “ideally the Town Hall would be refurbished, but funds for this are unlikely to be available. Twenty-three community halls were owned by the Council, and a further 80 funded by the Council. There is no budget for the repair of the Town Hall.” By their own admission, P&KC did not have an adequate maintenance budget for the public buildings in their care.

The updated building report dated October 2001 by Bell Ingram, Buildings Surveyors (Ref M) also indicates neglect by the Council:

“Although repairs and renewals have been carried out to a number of areas since the last report, most noticeably resurfacing of flat roofs, new boiler installation, repointing and repairs of the steeple, structural repairs to coping stones etc, unfortunately general deterioration of the property continues, mainly as a result of lack of capital investment aimed at taking the property to a good state of fabric repair and to upgrading the accommodation and services, sufficient for modern day usage.”

“Several sections of the property (e.g. Social Work Department and Billiard Hall) appear no longer in use and the lack of general usage will accelerate the rate of deterioration.”

“Outbreaks of timber decay are being dealt with on an *ad hoc* basis ... on the section of property in most regular use.”

“The main reasons for the dampness and timber decay noted stem from inherent poor detailing, natural ageing of the fabric and a lack of planned maintenance, together with the need to improve the provision of rainwater goods and drainage throughout the property.”

In the view of KCC, it was the duty of the local authority to look after the Town Hall and Library for the benefit of the people of Kinross. The deeds of the Town Hall say “they undertake and bind themselves and their successors in office to hold the said buildings and fountain in perpetuity for behoof of the inhabitants of the Burgh of Kinross.” The Minute of Agreement relating to the library states “the Library shall be upheld out of the rates in all time coming for behoof of the Town and Parish of Kinross”. When the Town Hall was in the care of Kinross Town Council, there was a

sub-committee which met regularly and looked after the maintenance of the hall. KCC suggests that it was after the dissolution of Kinross Town Council with local government reform in 1975 that neglect of the Town Hall and Library began. The deliberate removal of facilities (Museum in 1975 and Social Work Department in 1996) exacerbated the decay of the building by closing some sections which would then suffer from poor ventilation, minimal heating etc.

If it is determined through the legal process that the Town Hall may be sold, it is the view of KCC that the whole sum realised should be transferred to a Special Kinross Fund. That is because, firstly, KCC argues that the Town Hall is part of the common good of Kinross (a point with which the petitioner agrees) and, secondly, that the maintenance costs incurred by P&KC since closure of the buildings (and any future maintenance expenses) should not be deducted from the sum realised on sale. It was the duty of the local authority to maintain the subjects.

16. If it is determined through the legal process that the Library may be sold, it is the view of KCC that the whole sum realised should be transferred to a Special Kinross Fund. That is because KCC argues that the Carnegie Library building is part of the common good of Kinross. P&KC should not be allowed to retain some of the proceeds because it has expended a sum on providing a Portakabin library in Kinross. If P&KC had maintained the Carnegie Library as it was obliged to do as successor to the title, it would not have been necessary to spend money on a Portakabin. P&KC has a statutory obligation to provide a library service and should do so with funding from the Council Tax.

Further Points

- a) The Town Hall, Library and Steeple/Clock Tower are Listed Buildings in a Conservation area in the heart of the town. The Steeple dates back to the mid 18th Century, and is all that remains of the old Parish kirk. The steeple in particular is an essential part of the town's visual identity.
- b) Kinross once had its own Town Council and County Council. Now it no longer has what even the smallest local villages have - a hall of its own in which to hold community events, such as "Light Up Kinross" (our switching on ceremony for our Christmas decorations), Town Twinning events and so on. There is a strong community spirit in Kinross and many groups and organisations. It is a concern, however, that the lack of a community focal point will gradually erode some of this community spirit and activity.
- c) The buildings have an emotional significance to local people. The Town Hall was gifted to Kinross Burgh in memory of the Men and Women of Kinross who served in the Second World War 1939-1945.