

Kinross Community Council



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To: Members of the Kinross Common Good Fund Committee

Subject: Kinross Town Hall and Library – Common Good Fund Meeting 20 December 2006.

Representation

We represent the Kinross Community Council, 18 people who wrote to the Sheriff to object to the Petition put to him by Perth & Kinross Council in August 2005 and the 2,400 people who signed a petition in favour of retaining the Kinross Town Hall and Library. This letter will be delivered to the Council's offices accompanied by a photocopy of the said petition of 2,400 signatures. Copies of the letter will also be sent to the individual members of the Common Good Fund Committee.

Request for a Deputation to be heard

A request was made on 14 December to the Committee Officer for permission to address the Common Good Fund Committee at its meeting on 20 December 2006. Receipt of the request was acknowledged on 14 December.

Requests

1. We do not know the precise contents of the paper P1 on the agenda for 20 December 2006. However, we urge the Kinross Common Good Fund Committee NOT to homologate the Council's current position, which is to sell the Kinross Town Hall and Library for the highest bid (£185,000) following its advertisement for sale in November 2003.
2. We ask you to note the strong feeling locally that the buildings should be restored and retained for community use. A total of 2,400 people signed a petition stating "We the undersigned believe the Kinross Town Hall and Carnegie Library belong to the people of Kinross. We oppose the decision of Perth and Kinross Council to sell them and believe they have an obligation to renovate and restore the buildings so as to provide facilities for the community."
3. We acknowledge that it may not be financially possible for the Council to restore the buildings for complete community use as referred to above. We ask the Common Good Fund Committee to request that Perth and Kinross Council reviews its earlier decision to sell the whole buildings, and gives consideration

to other possible solutions for the buildings, perhaps involving partnership arrangements or perhaps a solution whereby part of the buildings are sold for commercial development and part retained and refurbished for community use.

History

Kinross Town Hall was gifted to the people of Kinross by the Kinross Market Company in 1945. The deeds state: "... 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."

The Library was built with funds gifted by Andrew Carnegie. The deeds date from 1904 and are in the joint names of the Town Council of the Burgh of Kinross and the Parish Council of the Parish of Kinross, who acquired the land on which the library was erected. A minute of agreement was adopted at that time, and recorded at the register of Sasines. This stated: "... 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 by the Town Council of the Burgh of Kinross and the Parish Council or Landward part thereof of the Parish of Kinross. The title thereto shall be taken in name of the parties hereto or in such other way as may be arranged so as to provide that the building shall belong in all time coming to the inhabitants of the said Town and Parish ..."

Both these documents established trusts between the people of Kinross and the Council. These trusts have been breached by the lack of maintenance of the Town Hall and library, particularly over the period 1975-1995.

Following various changes in local government, Perth and Kinross Council has inherited the titles to the Library and Town Hall, but as gifts to the local people, the properties are "common good" and the local authority should act as stewards.

Court Case

The petition to the Sheriff by Perth and Kinross Council to allow the disposal of the Town Hall and Library is currently 'sisted'. This means that it is in limbo pending the rewording of the petition from Perth and Kinross Council following the opinion of a QC on legal matters. Should the case resume, the agreed next step is the appointment of a Reporter to investigate the right of the Council to alienate the building. This is likely to take several months, possibly years, if previous experience is taken into account:

August 2001	Kinross Library closed
January 2002	Kinross Town Hall closed
27 February 2002	SP&R Committee of PKC resolved to dispose of buildings
27 November 2003	Closing date for offers to purchase
17 March 2004	SP&R Committee approved sale to the highest bidder for residential conversion
3 August 2005	PKC petition came before Perth Sheriff Court. Kinross CC accepted into legal process as respondents.
23 November 2005	Both sides agreed the opinion of a QC should be sought
11 January 2006	Case sisted pending QC's opinion
15 May 2006	Memorial given to QC (delay due to PKC staff change)
23 August 2006	QC's opinion received
1 December 2006	PKC gave written confirmation of position following QC's opinion

The Kinross CC Town Hall sub group is doing all in its power to speed up this process, however, the biggest delays have been caused by the procedures of Perth and Kinross Council.

Sale of Building

The Town Hall and Library were exposed for sale by Perth and Kinross Council as one in November 2003; an offer of £185,000 was made and provisionally accepted. Property prices in the area have risen dramatically since this offer was made, for example, 239 High Street, Kinross was sold on 4 July 2003 for £33,500. This property was resold on 11 September 2006 for £52,000. A similar increase in the price of the Town Hall would result in a sale price of £287,164. It is our contention that failure to re-present the property for sale will not give best value. If one calculated the price on the currently selling price of domestic properties in Kinross, which is £1,500 per square metre, this indicates a value in excess of £1.25 million (the Town Hall and Library having a combined floor area of 851 sq metres).

Right to resile

In the Perth and Kinross Council letter of acceptance of the offer dated 13 April 2005, there is a condition of acceptance which states: that if entry "does not occur by 31 August 2005 then either party shall be entitled to resile from the Missives and that without penalty by giving written notice to the other party at any time after 31 August 2005."

In addition, the Council's acceptance letter states that "The Missives shall be suspensively conditional upon the Council obtaining (i) the consent of the Court to sell the subjects of sale in terms of Section 75(2) of the Local Government etc (Scotland) Act 1973 and that in terms wholly satisfactory to the Council;"

Our understanding of this is that these clauses give the council the right to resile from the missives.

Common Good Property

"Common good" consists of the finances, land and other assets inherited by local councils from Scotland's former burghs. A report by land use researcher Andy Wightman and accountant James Perman, "Common Good Land in Scotland: A Review and Critique" published in November 2005 concluded that successive rounds of local government reorganisation have left the administration of common good assets in a chaotic state in all local authority areas of Scotland. Andy Wightman made the following comment in The Herald newspaper, Monday 28 November 2005:

“We obtained a copy of the property records of Kinross Town Council. From 1908 to 1975 the provost, magistrates and bailies acquired more than 140 local properties. Some have been sold but the majority still appear to be held by the local authority. Most of these will be part of the common good of Kinross and the receipts from those sold should have been paid into that fund.”

All properties (except those acquired under statutory powers) which were owned by Kinross Burgh just before the dissolution of the burghs in 1975 should be part of the property portfolio of the Kinross Common Good Fund, and the income being generated from them, plus any proceeds from their sale should be going into the Kinross Common Good Fund.

We would encourage Perth and Kinross Councillors to petition the council to have the remaining properties placed in the common good fund as these would increase the fund value massively and would provide an income stream which could be used to help maintain the Town Hall.

Viability of a renovated Town Hall

In 1997/8 there were 159 groups listed as regular users of the Town Hall. We would anticipate that these groups or similar ones would use a renovated Town Hall. In addition to this, the population of Kinross-shire has almost doubled in the last 30 years. This should create an increased demand for use of a renovated Town Hall. In addition, recent projections estimate a further 25% increase in the population of Kinross-shire by the year 2020.

Support for retention

2,400 people signed a petition which stated: “We the undersigned believe the Kinross Town Hall and Carnegie Library belong to the people of Kinross. We oppose the decision of Perth and Kinross Council to sell them and believe they have an obligation to renovate and restore the buildings so as to provide facilities for the community.”

Kinross Town Centre

The 2,400 signature petition demonstrates the wide public support for the retention of the Town Hall. In addition, we have personally received many comments from local residents who want the retention of a public hall space in the Town Hall building. Many, many people have bemoaned the deterioration of the Town Centre and commented on how things used to be. There is a strong belief locally that Kinross is being driven more and more into a commuter town with nothing but houses in it. We have had lots of comments about how it used to be used by the youth of Kinross and how it created a strong community spirit.

We are not convinced that all options were properly explored before the buildings were marketed and provisionally sold for flats.

In a letter dated 11 September 2002, a Director of Bell Ingram Design wrote “Having inspected the property for Perth & Kinross Council some time ago, I was interested to see that it is now on the open market. I have mentioned the idea briefly to Perth & Kinross Heritage Trust and a member of the local community also, the suggestion being that a single project Building Preservation Trust could be established so that the potential for other forms of funding could be opened up as an alternative option to current alternative proposals to meet the local community needs. In effect, this would

mean an arrangement between PKC and the Building Preservation Trust being established with regard to ownership”.

Prior to marketing the buildings, PKC instructed Ryden Property Consultants to provide a valuation report. A letter from Ryden’s dated 7 May 2003, says “In essence, I believe that either a full conversion to business space or a mixture of residential and business space would be the most attractive option. A business space conversion would also lead to potential job creation which would obviously be of attraction to the Council”.

Our knowledge of the bids received has been restricted by exemptions to the Freedom of Information Act, but we do know that in a letter following a viewing of the building, one property developer wrote on 14 July 2003, “our preliminary view is that the buildings could provide an attractive business centre facility servicing a variety of business types. However we understand that presently the Council is moving to complete disposal of the property. Unfortunately we do not consider that the sum sought in conjunction with capital for refurbishment would support a business centre proposal. As an alternative we request that the Council considers a partnership type arrangement. [some information withheld at this point - FOI exemption]. We foresee a centre with predominantly office facilities but with some supporting complementary uses, for example a café and Internet room.”

In our view, the selection of simply the highest bid out of those offers received in November 2003 was not in the best interests of Kinross. Six offers were received, offering the following uses for the buildings:

- 1 Conversion of existing building into residential
- 2 Conversion into flats and retail outlet
- 3 Conversion into flats, retail and office use
- 4 Conversion into mixed residential and office or residential use
- 5 Conversion of the existing building into residential and some other use
- 6 Conversion of existing building into residential, ten of which disabled

Turning these buildings into a block of flats rather than retail or office use goes against Perth and Kinross Council’s own objectives as outlined in the Structure Plan (June 2003). The Plan’s strategies and policies are to protect town centres and make them a focus for investment in employment, retail and leisure provision and to promote greater self-sufficiency in rural areas. The local plan is supposed to encourage appropriate use of vacant buildings to assist urban renewal and community regeneration. We would also remind you that the Structure plan states, “the area’s built heritage contributes greatly to the character of Perth and Kinross and provides a sense of place and an important link with the past. The educational, tourist, recreational and ultimately social and economic value of this heritage contribute to the quality of life in Perth and Kinross”.

Summary

Kinross Town Hall and Library were gifts to the people of Kinross and entrusted to the care of the local authority to maintain for the benefit of the local people.

Perth and Kinross Council should carry out a full inventory check of Common Good assets for all the former burghs contained in the local authority area.

If it is thought necessary to sell some of the common good property in Kinross, due regard should be given, in the disposal process, to the need to invigorate the Kinross economy and to retain, if possible, some community use of the Town Hall building.

Actions requested

1. We ask the Committee to refuse to homologate the Council's resolution to sell the Town Hall and Library to the highest bidder as at November 2003.
2. We ask the Committee to demand that the Council resiles from the missives connected with that bid.
3. We ask the Committee to ensure that a full review of the potential uses of the Town Hall and Library is carried out.
4. If disposal by sale is deemed necessary, we ask that you request that Perth and Kinross Council follow the same process taken with the Perth City Hall, whereby a development brief be written for the buildings, and the property be re-marketed on that basis.
5. We would urge that this development brief should identify the Town Hall for retention by Perth and Kinross Council, with the proceeds of the sale of the Library building being used to fund the repair and future upkeep of these parts of the building. We would suggest that any additional sales value should be placed in the Kinross Common Good fund.
6. There should be an opportunity for the whole community to comment on the proposals.

Should the committee decide to homologate the decision of Perth and Kinross Council, then the Kinross Town Hall Sub Committee will continue to the next stage of the legal process.

Yours sincerely

David Cuthbert
Kinross Community Councillor
Chair, Town Hall sub-committee

Eileen Thomas
Kinross Community Councillor
Secretary, Town Hall sub-committee