

PERTH AND KINROSS COUNCIL**Property Sub-Committee – 9 June 2010****TENNIS COURTS AT STATION ROAD, KINROSS
SITE OF FORMER TENNIS COURTS AT GREEN ROAD, KINROSS
TRANSFER OF COMMON GOOD STATUS****Joint Report by the Head of Property and the Head of Legal Services**

The purpose of this report is to inform the Committee of the Common Good Status of the tennis courts at Station Road, Kinross.

1. RECOMMENDATION

- 1.1 The Committee is asked to note that the tennis courts in Station Road are considered to be part of the Common Good of Kinross in place of the former tennis courts at Green Road which now form part of the site of the former Kinross High School.

2. BACKGROUND

- 2.1 Part of the site of the former High School in Kinross comprises an area bounded by Green Road, extending to 90 falls or thereby which was disposed to the Provost, Magistrates and Councillors of the Burgh of Kinross in 1945 by the British Linen Bank.
- 2.2 Where subjects have at any time been in the hands of a burgh, there is a presumption that they form part of the Common Good of that burgh. This presumption is displaced if the subjects form part of a trust or were acquired under specific statutory powers. In the case of the subjects at Green Road, neither of these criteria was met and the subjects should, therefore, be regarded as having formed part of the Common Good of Kinross.
- 2.3 At the time of the disposal to the former Burgh Council, the subjects were in use as tennis courts and it was a condition of the Disposition by the British Linen Bank that the subjects should continue to be used for outdoor recreational purposes. This restriction in the title was discharged on application to the Lands Tribunal in 2009.
- 2.4 In the late 1970s, it was agreed between the former Tayside Regional Council and Perth and Kinross District Council that the Regional Council could extend the site of the former Kinross High School onto the subjects and would in exchange provide new tennis courts elsewhere in Kinross. The tennis courts situated in Station Road were built as a result.

- 2.5 There was no formal transfer of title between the two Councils and the need for this ceased when the functions of both were transferred to the new Perth and Kinross Council at Reorganisation in 1996.
- 2.6 An extension to Kinross High School was built on the former tennis courts in the 1980's and the replacement tennis courts in Station Road were clearly intended to benefit the community in place of those which were conveyed to the Burgh Council in 1947.

3. CURRENT POSITION

- 3.1 The former tennis courts now form part of the surplus school site. The current tennis courts are occupied by Kinross Tennis Club under a management agreement and, under that agreement, one of the courts is available to members of the public who are not members of the Club.

4. CONSULTATION

- 4.1 The Head of Finance and the Head of Public Space Management have been consulted in the preparation of this report.
- 4.2 The Community Council has been consulted and has not objected to the assertion that the tennis courts at Station Road have replaced the former tennis courts as part of the Common Good of Kinross.

5. RESOURCE IMPLICATIONS

- 5.1 The replacement of the former tennis courts at Green Road by the current tennis courts at Station Road has maintained the Common Good assets of Kinross.

6.0 COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012

- 6.1 The Council's Corporate Plan 2009-2012 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:-

- (i) A Safe, Secure and Welcoming Environment
- (ii) Healthy, Caring Communities
- (iii) A Prosperous, Sustainable and Inclusive Economy
- (iv) Educated, Responsible and Informed Citizens
- (v) Confident, Active and Inclusive Communities

This report relates to all of these objectives.

7.0 EQUALITIES ASSESSMENT

- 7.1 The information presented in this report was considered under the Corporate Equalities Assessment Framework and the determination was made that the items summarised in this report do not require further assessment.

8.0 STRATEGIC ENVIRONMENTAL ASSESSMENT

8.1 The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and the determination was made that the items summarised in this report do not require further action as they do not qualify as a plan, programme or strategy as defined by the Act.

9.0 CONCLUSION

9.1 The replacement of the tennis courts at Green Road with those at Station Road has ensured that the use of the former tennis courts at Green Road for other purposes has had no detrimental effect on the Common Good assets of Kinross.

**RUSSELL THOMSON
HEAD OF PROPERTY**

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HEAD OF LEGAL SERVICES**

NOTE

No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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