

As contact point for the Kirkcolm Community Trust (KCT), registered address C/O Craigholm, Church Road, Kirkcolm, DG9 0NW.

I would like to register an appeal against Dumfries and Galloway Councils (DGC) decision to reject our Community Asset Transfer application on the car park, Church Road, Kirkcolm, DG9 0NW. As noted in the minute the Financial, Procurement and Transformation Committee on 17th November 2020

Items in bold are council decisions.

13.8 AGREED that the request for the Community Asset Transfer of the car park to Kirkcolm Community Trust be refused and that the Council's Community Asset Transfer Team revisit the Kirkcolm Community Trust's Business Plan and Community Asset Transfer request to take account of the future use or sale of the Hall.

Our reasons for appeal are:

Dumfries and Galloway Councils refusal to treat the village hall and the car park as two separate entities. They are not physically joined and they are listed separately on the councils own list of buildings and land (431X90 is the car park and 450X86 is the hall)

KCT do not believe that Dumfries and Galloway Council have acted within the Spirit of the Community Empowerment Act, quote ***"The Community Empowerment Act introduces a right for community bodies to make requests to all local authorities, Scottish Ministers and a range of public bodies for any land or buildings they feel they could make better use of. They can request ownership, lease or other rights as they wish."***

or within its own Community Asset Transfer Strategy

Section 2.2

The legislation provides a framework for community bodies to request to buy, lease or acquire other rights in land or buildings belonging to public authorities, in order to achieve their own goals. It does not prescribe or constrain what those goals may be. It establishes a statutory right for community bodies to make asset transfer requests for land owned or leased by listed "relevant authorities" including Councils. An asset does not have to be declared surplus to be available - and the Act gives communities the power to request ownership, lease or management of any asset.

Dumfries and Galloway have failed to accept that a KCT can request land in order to achieve its own goals and the KCT are within their rights to request a CAT for the Car Park only. Dumfries and Galloway Council do not have a plan, business or otherwise for the Car Park, and the Community do, KCT believe that our community can make better use of the asset and that the refusal to transfer the car park to KCT be over turned.

As stated in the KCT Business plan The KCT did previously consider a CAT and in preparation for this entered into a two year lease on the Village Hall, during this time the KCT had a full structural survey carried out by Savilles, which highlighted several

structural and other problems with the building. The cost of correcting those problems along with work to make the building accessible to all was prohibitive. KCT could not guarantee being able to raise the funds required and there were no offers from DGC of financial help.

At an EGM of the KCT in January 2020, where a council official stated DGC would not transfer a liability (the hall), it was decided in a unanimous vote not to progress with a Community Asset Transfer or renew the lease on the village hall and to purchase the vacant village shop to use for community functions and meetings.

The KCT believes it has applied due diligence in this respect by not extending its interest in the village hall and this is the reason the subsequent CAT request was for the car park alone.

We also believe that Dumfries and Galloway Council did not make their grounds for refusal clear and that the decision taken was ambiguous.

13.8 AGREED that the request for the Community Asset Transfer of the car park to Kirkcolm Community Trust be refused and that the Council's Community Asset Transfer Team revisit the Kirkcolm Community Trust's Business Plan and Community Asset Transfer request to take account of the future use or sale of the Hall.

KCT with Council Officers did as request by the Committee, revisit the KCT Business Plan providing clarity and additional information and clearly highlighting the decision of the KCT in not making a CAT request for the village hall. however, after completing this Finance Procurement and Transformation Committee refused to accept the information and revisit the CAT request.

In the refusal letter the following comments were made

“However, as the Village Hall has not been included in the application, it is the Council's view that this is essentially the same CAT Request and therefore, the decision made by FPT Committee on 17th November 2020 to refuse the KCT Request to transfer ownership of the Kirkcolm Village Carpark is reaffirmed.”

Which suggests to the KCT that if we had included the hall in our CAT the decision would have been approved, this we find unacceptable

We believe that a further failing of FPTC was that it did not follow the spirit of the Community Empowerment Act which states

“Public Authorities must transparently assess requests” and we believe that political bargaining behind the scenes prevented the desired transparency.

And further more

That the FPTC did not follow its own Council Priorities which state that

Dumfries and Galloway Council should be an ***“Inclusive Council”*** and; ***“ensure that local people and communities are at the heart of our decision making “and “Empower our communities to make the most of their assets”***

Ian Morral for KCT (Trustee and point of contact) 27-07-2021

