

## **DISCUSSION PAPER REGARDING COMMUNITY INVOLVEMENT CARRIED OUT BY KINGHORN COMMUNITY LAND ASSOCIATION 2005.**

**For presentation to Kinghorn Community Council at its meeting of 16<sup>th</sup> November 2006.**

**By Dr Ron Edwards, Environmental Advisor to KCC.**

**Dated: 13<sup>th</sup> November 2006.**

1. I was asked to compile this discussion paper as Environmental Advisor to the community council. Although I am a registered Environmental Auditor with IEMA and hold a PhD in Environmental Chemistry, this paper comprises a lay assessment and not professional opinion. By way of background information, I am chairperson of the Kinghorn Loch Users Group (an umbrella group of all interests in Kinghorn Loch), chair of the Pathways Group (sub-committee of Kinghorn Community Council) and a Fife Councillor. I chair the Seamill & Castle Improvement Scheme in Burntisland (Craigencalt Ecology Centre is a member of this group) and am actively committed to the furtherance of a number of environmental and community projects in Burntisland, Aberdour and Kinghorn.
2. I have endeavoured to produce as accurate and reasoned a paper as possible, from the received documents and substantiated recollection of members of the community. Interpretation of the findings is for the community council and others to conduct. The information reviewed does not form a complete record and evidence considered is listed in Appendix B.
3. Kinghorn Community Council was involved in establishing the original Kinghorn Community Land Association in 2004 and has always supported the aims of such an organisation, given proper protection of public interest and the community good.
4. Kinghorn Community Council emphasises very emphatically that it rigorously supports and promotes Craigencalt Ecology Centre and the access and land use aspirations of Kinghorn residents and visitors. It actively promotes the improvement of the community and access facilities within the village and especially recognises the attractiveness, desirability, peace and recreational use of the loch, the Coastal Path and beaches for a wide range of uses and for wildlife. It defends without question and seeks to extend the right of access to the countryside and to support the viability of its countryside. It is pleased to accept that Kinghorn Community Land Association and its successor Kinghorn Community Land Association 2005 has endeavoured to represent the best and general interests of the community of Kinghorn in seeking to apply the provisions of Part 2 Community Right to Buy of the Land Reform (Scotland) Act 2003.
5. Kinghorn Community Land Association was originally formed following a public meeting called by the ecology centre and chaired by Kinghorn Community Council during March 2004. The meeting arose from the concern within the community for the future of Craigencalt Farm Ecology Centre (now Craigencalt Ecology Centre) arising out of a proposal by Craigencalt Partnership (owners of the lands of Craigencalt Farm at that time) to seek to terminate the lease of the Ecology Centre. Well over 100 people attended the meeting and a steering group was set up to establish a Land Association with the sole intent of securing the land presently occupied by the ecology centre for that purpose. After extensive consultation the Kinghorn Community Land Association was set up and established as a company limited by guarantee. A further public meeting (as a Participatory Appraisal) was held in May 2005.
6. This company ultimately failed during 2005 and a new company, Kinghorn Community Land Association 2005 (referred to as KCLA) set up later in 2005 with similar purpose. KCLA currently has approximately 100 members, principally from the Kinghorn community.

7. In 2005, KCLA proposed to register land under Part 2 Community Right to Buy of the Land Reform (Scotland) Act 2003 comprising the access road to Kinghorn Loch Car Park and the whole of the car park area beside the loch (the East Shore). This land was solely within the ownership of Pittards Limited or its successor to the land, Kinghorn Developments. The community council believes that the community of Kinghorn was very supportive of this application.
8. The original Kinghorn Community Land Association (prior to KCLA 2005) was originally set up to find a suitable location for the Ecology Centre when its continuance was specifically under threat. When Kinghorn Community Land Association 2005 registered the East Shore, this was seen to support this aim. However the Board of Directors included Julie Samuel (married name as J Farr), a paid senior manager of Craigenalt Ecology Centre who evidently has a potential pecuniary interest in the acquisition of land by KCLA in the continuance of the ecology centre should Craigenalt Farm cease their lease.
9. The only public meeting undertaken by the new company, on 21<sup>st</sup> February 2006 comprised a presentation on the experience of Gigha and a further Participatory Appraisal style workshop. The Participatory Appraisal comprised an assertion of likes, dislikes and development of a "wish list". Specific areas of land around Kinghorn were not discussed nor any proposed uses, so was not a consultation on the subject land covered by the petition of June 2006.
10. It is claimed that the stall at the Craigenalt Summer Festival comprised a consultation, but whatever happened here is not recorded and not previously advertised as a consultation.
11. It should also be noted that there was no prior notice or venue for the taking of the petition and it is open to question as to whether this could be considered proper public consultation.
12. Should any land come up for sale the community will be asked to agree by ballot, such that the votes in favour must be at least 26% of the total electorate. It is necessary for the community council to decide whether they believe that consultation by KCLA at that stage is likely to be adequate for the purpose, or whether the community council should take the initiative and proceed with public consultation on each parcel of land in the near future.
13. The petition in June 2006 gained much more than the 10% approval required for registration and that is a very commendable figure showing the real concerns of the public of Kinghorn. However, how informed the petitioners were (or are) regarding the proposals is open to debate, and whether they would support the detail of the proposals if given sufficient knowledge and debate is unknown.
14. Membership of KCLA is given as around 100, predominantly residents of Kinghorn. Members do not appear to attend Board meetings and no other meetings appear to be open to members, other than the AGM and public meeting of February 2006, as no minutes of such have been seen.
15. I am unaware of any public debate that has been initiated or carried out in furtherance of the specific land acquisitions or the proposed uses now proposed by KCLA.
16. As far as I am aware, at no time prior to the recent notification to landowners has anyone in the community, other than Board members of KCLA, been made aware of any definitive proposed purpose for any of the parcels of land.
17. The community council questions whether the "public interest" of the community is in any way served by this lack of transparency and suppression of knowledge within the community by KCLA.

18. KCLA has described its vision for the land around Kinghorn Loch as being:

“Our vision of Kinghorn Loch and its surrounds:

- Of a beautiful peaceful yet accessible and vibrant place
- With a sustainable balance of environmental, educational, economic, leisure and social pursuits
- And secured by care, excellent stewardship and community ownership.

“

19. This vision appears to fully describe the present situation (without any involvement of KCLA) of Kinghorn Loch except for the aspiration of community ownership. The whole area has full public access (with the exception of some land at Grangehill), is criss-crossed by pathways and Craigencait is described by the Pathways Group of KCC as a pathways and community hub, where paths start or finish. It is on a circular extension of the Coastal Path open to all, walkers, horse riders, cyclists, etc. The loch has free fishing and free use by canoes and sailing dinghies. It has the educational aspects of the ecology centre and Craigencait Farm and economic viability with the Good Practice operations of Banchory Farm.
20. I believe that there are two areas of concern for the community as a whole. The future of the land proposed for the cemeteries and leisure use of the East Shore area is covered within the Development Brief of Kinghorn Developments, adopted by Fife Council as Supplementary Planning Guidance. The community remains sceptical of the intentions of the company. The future of Craigencait Ecology Centre remains unclear, with 8-9 years remaining on its lease. The community would wish to secure a long-term future for the centre within the community.
21. The Community Interest under the Act indicates the any acquisition must be in the community interest. I would consider it to be generally accepted that the vicinity of Kinghorn Loch, other than land owned by Kinghorn Developments, is already in excellent public use and it is difficult to see what can be gained by these acquisitions under the Act. It is therefore necessary to decide whether acquisition under the Act is in the “community interest” or indeed would be more sustainable. The community council and I (as chair of Kinghorn Loch Users Group and the Pathways Group and a dedicated environmentalist) have always actively supported and encouraged the work of Craigencait Ecology Centre. However, the centre may be seen to be least sustainable in not employing conservation grazing to its lands. It is seen by the community as being the most likely mechanism for management of any acquired land. It is therefore necessary to decide whether acquisition under the Act is likely to be in the “public interest” of the community in transferring ownership to untested land managers when current land managers provide a sustainable role while endeavouring to embrace the community and its “public interest”.
22. It is necessary to decide whether acquisition under the Act offers any furtherance of “Sustainable Development” of the parcels of land or as an overall unit. Also whether the level of debate and consultation undertaken by KCLA can transparently illustrate “support for development of the community” and indeed whether the proposals will achieve as great a support for the community than would be available otherwise.
23. The principal uses suggested by KCLA (see Appendix A) may well be achievable without acquisition under the Act, although this may, after proper debate, be determined as being the most desirable and “right” option.
24. If it is viable to extend the Golf Course, then it is probable that the land could be bought from Banchory Farm at market price.

25. Similarly, the Canoe Club has already agreed with Craigencaft Farm that they can acquire land to build a club HQ, which could, given adequate funds, become of considerable national importance.
26. The proposal to use Craigencaft Farm for “social housing” will be to the detriment of the wider public interest as the community and visitors currently have extensive and valuable use of the steading through visiting the ecology centre. No indication is given of whether Fife Council Development Services would support such a venture.
27. Similarly the farm would not oppose the improvement of roads and pathways to improve access, given funding.
28. There appears to be little purpose to impose action under the Act for all the parcels of land indicated, and indeed the community has not been given the opportunity to consider any alternative other than acquisition under the Act by KCLA at this time.
29. Given the stability of land ownership in the countryside around Kinghorn, it is unlikely that any of the land (other than perhaps that owned by Kinghorn Developments and possibly Lochside Stables) would potentially come on the market in the foreseeable future.
30. The community has a right to purchase land for its purposes, but the community has to exercise that right with knowledge. It is therefore necessary to decide whether the community has been provided with that knowledge by KCLA. Similarly, prior to the statutory notification, landowners have had no detailed knowledge of the intentions of KCLA. KCLA appears to have suppressed the giving of such knowledge (given the refusal of KCLA to give this information at the community council meeting it attended on 18<sup>th</sup> May on the basis that it would alert the landowner to the proposals).
31. KCLA seeks to justify the secrecy in its letter to John McLeod in November 2006 (for community council) as item 7 of their letter. This states that “This sometimes means that our actions must be well timed and astute [within the property market]...We have sought to explain this to others such as the Community Council, and hope people will understand.....that whilst we will always be as open as possible, we cannot be naïve players in the market”. It is for the community to decide whether such secrecy is in the public interest.
32. In the letter to Marilyn Livingstone from Rhona Brankin of 28<sup>th</sup> September 2006 (ref:2006/0027065) it is stated that Land Reform officials of Scottish Executive attended the public meeting of 21<sup>st</sup> February 2006. The letter states that “They are also to meet with the KCLA next week and will ensure that public consultation on any additional applications is high on the agenda”. This statement clearly indicates that consultation is extremely important for any registration of land. It is difficult to see that there has been any formal public debate on any of the land packages that KCLA seeks to register. “Consultation” appears to have been limited to members of KCLA approaching each individual person that signed the petition on their own to gain a signature. That is not public debate or public consultation. The letter also indicates that The Act requires a willing seller and a willing buyer. While one minute (09-02-06) claims the support for the aims of KCLA by J Cochran (of Banchory farm) and the general support of most landowners, these statements appear to be hope rather than reality. Unfortunately since the petition, the work of the Pathways Group and indeed the Fife Access Forum has become very much more difficult – landowners, most of which have always worked with the community of Kinghorn, are now angry and resentful of the actions of KCLA. The aspirations on working with land owners given on page 5 of “The Big Picture” appears to have been seriously dented by the manner of KCLA.

33. It might also be pointed out that there has been no meaningful consultation with the community council as at its one meeting, KCLA refused to describe the land that it was seeking to register or the proposed specific use after registration. KCLA has never consulted with the Pathways Group and consultation with Kinghorn Loch Users Group involved investigating options for development only, such as the desire of the Canoe Club to build a club house, a proposal that requires funding but already has an acceptable location.
34. Kinghorn Community Council supports a number of environmental initiatives. It operates the Pathways Group as a sub-committee and participates in BAKPAC, the pathways umbrella group for Burntisland, Aberdour and Kinghorn. It resurrected the Kinghorn Loch Users Group as an umbrella group for the vicinity of the loch, and supports several environmental initiatives. It has always shown full support for Craigencait Ecology Centre and assists where possible.
35. The community council supports the Land Reform Act and waited a considerable time to welcome its provisions in pursuing certain problematical access issues. It continues with this work.
36. Kinghorn Community Council fully supports Part 2 Community Right To Buy of the Land Reform (Scotland) Act 2003. However, it now remains for the community council to decide whether it approves (on behalf of the community) of the manner in which KCLA has sought registration of lands and whether the proper transparency, consultation or public debate of its proposals has been adequate.
37. The community council will willingly work with KCLA, landowners and community in endeavouring to achieve the aspirations and rights of the community of Kinghorn. Following adequate process to determine the knowledgeable view of the people of Kinghorn, the community council will promote the community view that would potentially be put to ballot under the Act.
38. It is therefore necessary for the community council to decide whether registration of some or all parcels of land under the Act is in the public interest and will improve sustainability or whether it wishes to seek suspension of the registration to allow proper debate in the community. The community council needs to consider whether suspension could yield real, positive results for the community, with potentially viable projects being taken forward for the long-term sustainable benefit of the whole community and for the loch.
39. Questions to be considered:
- The petition gained much more than the 10% approval required for registration. However, how informed the petitioners were (or are) regarding the proposals is open to debate, and whether they would support the detail of the proposals if given sufficient knowledge and debate is unknown.
  - Whether the level of debate and consultation undertaken by KCLA can transparently illustrate “support for development of the community” and indeed whether the proposals will achieve as great a “support for the community” than would be available by other means. It is therefore necessary to decide whether the community has been provided with sufficient information by KCLA to make an informed choice.
  - Whether the “public interest” of the community is in any way served by the lack of transparency and suppression of information within the community by KCLA.
  - Whether acquisition under the Act is in the “community interest” or indeed would be more sustainable. It is particularly necessary to consider whether acquisition under the Act is likely to be in the “public interest” of the community in transferring ownership to untested land managers when current land managers provide a sustainable role while endeavouring to embrace the community and its “public interest”.

- Given all of its concerns (if any) regarding the process followed by KCLA, whether it wishes to seek suspension or refusal of the registration of some or all parcels of land under the Act in order to allow further debate in the community.
- Given that any land that comes up for sale will be subject to ballot, whether the community council wishes to take the initiative and proceed with public consultation on each parcel of land in the near future.

## **Appendix A: Proposed Uses, Taken from Register.**

KCLA has not indicated any uses of the land to the community, other than for K1, in any public document (as at 13<sup>th</sup> November 2006). Examination of the RCIL register at <http://rcil.ros.gov.uk/rcil/default.asp?category=rcil&service=list> lists uses that are summarised below (according to my understanding):

unit	description	Existing use	Proposed use
K1	Access road & car park		not examined due to existing registration.
K2	Proposed cemeteries	Disused/setaside	Lease to Fife Council for cemeteries
K3	Lochside Stables	house & garden	bunkhouse
K4	sluice	leisure/fishing	as is but better maintained
K5	Tannery pond to Burnside Avenue	rough walking on RoW	as is but better maintained, and developed for wildlife
K6	Donkey Field	exciting path for horses	part of access path, better maintenance & wildlife corridor
K6A	bottom of Donkey Field	Rough walking on RoW	as is but better maintained, and developed for wildlife
K7	Golf Course Field	crops including green pathway around field and part leased for horse grazing	lease for grazing, woodland, sawmill, extended golf course, car parking and bunkhouse.
K8	Grangehill woodland & rough land (limited access)	woodland	
K9	Slack Acre woodland & rough land (limited access)	woodland	
K10	Lochside House lands	curtilage land to house	conifer woodland
K11	disused railway	woodland	wooded circular pathway
K12	back of Gallow Hill	setaside	willow bio-fuel production
K13	Lochside House	Lochside House & woodland	supported accommodation
K14	head of loch	wetland & woodland	as is
K15	gas station	Transco station	as is
K16	Craigencalt Farm	farmhouse & ancillary activity,	Craigencalt Ecology Centre, woodland, pasture lease all land to Ecology Centre. Farmhouse to be used for social housing.
K17	Field above Red Path Brae	crops	community woodland, possible willow biomass production
K18	"grebe pillars"	anglers	as is

## **Appendix B: Local Sources of Information and Reference.**

### **Membership brochure:**

Purpose: "The non-profit company formed to acquire, protect, conserve and manage land around Kinghorn for the benefit of the people of Kinghorn".

### **Board member attendees at KCLA Board meetings at any time:**

C.Mitchell, J Lancaster, E Campbell, C Brown, S Wakefield, R Ramage, R Brewster, H McNeill, M McMillan, J Samuel/J Farr, A Donald

### **Bodies who may have been contacted (according to minutes that have been examined)(not necessarily adequately consulted or giving support):**

Kinghorn Community Council

Kinghorn Loch Users Group

Fife Rural Partnership

Scottish Agricultural College – Farming Consultants.

Kinghorn Developments.

Path group meeting proposed 17 August 2006 – however no contact made.

SNH

RSPB

Jones Lang Lasalle

Alcan (Ken Evans)

Common Good

Rotary Club

Keith Winter, Fife Council

Andrew Ferguson, Fife Council

Craigencalt Farm

Gordon Brown MP

John McLeod

Marilyn Edwards

Marilyn Livingstone MSP & Rhona Brankin.

Councillor Fraser Ballantyne

### **Meetings (recorded on minutes that have been seen) – but no record of meeting or statements of support:**

SWT

SEPA

Forestry Commission

Kinghorn Developments (meeting arranged no date, around 15<sup>th</sup> June? – then cancelled).

### **Minutes that were examined (only since formation of KCLA 2005):**

**KCLA minute of 07-09-05.**

**Attended by 5 members. Primarily concerned with setting up company.**

**KCLA minute of 21-09-05.**

**Attended by 6 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 27-10-05.

**Attended by 7 members. No meaningful information regarding community involvement is described. Describes the land at “East Shore and Cemetery” but no other land areas identified, no land use or community use proposals described.**

KCLA minute of 03-11-05.

**Attended by 7 members. Primarily concerned with company matters.**

Meeting with Planners 11-11-05. No notes seen.

KCLA minute of 17-11-05.

**Attended by 7 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 01-12-05.

**Attended by 7 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

Meeting with Rhona Brankin 05-12-05. No notes seen.

KCLA minute of 12-01-06.

**Attended by 6 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 09-02-06.

**Attended by 7 members. No meaningful information regarding community involvement is described. No land areas identified other than “regarding the land we already have a registered interest in”, no land use or community use proposals described. Describes Jean Cochran as agreeing “area around the loch should have open**

**access to the public. She agrees with our aims". Claims "Landowners – mostly supportive – none against". [These claims are not substantiated and are contrary to landowners present (November 2006) expressions of anger.]**

**KCLA Public Meeting of 21<sup>st</sup> February 2006.**

Alan Hobbett – experience of Gigha. Participative Appraisal type approach but no discussion on actual proposals, even though these appear to have been already been indicatively developed.

**KCLA minute of 27-02-06.**

**Not seen.**

**KCLA minute of 09-03-06.**

**Attended by 5 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

**KCLA minute of 23-03-06.**

**Attended by 8 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

**Vision described as:**

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**KCLA minute of 20-04-06.**

**Attended by 5 Board members. Meeting with Kinghorn Developments cancelled. Meeting with Marilyn Livingstone postponed. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

**Kinghorn Community Council, meeting minute of 20-04-06 (by Marilyn Edwards).** 9 members and public present. Under Correspondence it was noted that "KCLA minutes were circulated to members present. It was agreed that it would be helpful if the minutes could be more informative and there was more consultation".

KCLA minute of 04-05-06.

**Attended by 7 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 18-05-06.

**Attended by 5 members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

Kinghorn Community Council, meeting minute of 18-05-06 (by Marilyn Edwards). 18 members and public present. There was considerable concern that the minutes were completely uninformative. "KCC members said it would be helpful if the minutes could be more informative to readers". The KCLA members present refused to identify any of the land that they wished to register as it "would raise the concerns of the landowners". However, it also meant that no-one other than the KCLA Board Members knew what land they were interested in.

KCLA minute of 01-06-06.

**Attended by 5 members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 15-06-06.

**Attended by 5 members. No meaningful information regarding community involvement is described. No land areas identified "walk land and check boundaries" – boundaries of what? "Finalise maps and grid references" – to what? "Areas described as K1 to K18". No land use or community use proposals described.**

Petition signing event – 24-06-06.

KCLA minute of 06-07-06.

**Attended by 8 Board members. Indication of consultation with Canoe Club, saying they "had negotiated with land owners for premises for their club". Apparently C Mitchell responded concerning multi-use of this facility. [The Canoe Club has questioned this account]. No other meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 03-08-06.

**Attended by 5 members. No meaningful information regarding community involvement is described. No land areas identified other than by code K6 and K18, no land use or community use proposals described.**

KCLA minute of 31-08-06.

**Attended by 6 members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 14-09-06.

**Attended by 6 members. No meaningful information regarding community involvement is described. No land areas identified other than mention of land at Burnside Avenue owned by Fife Council, no land use or community use proposals described.**

***KCLA AGM of 19-09-06***

Minute not seen.

KCLA minute of 28-09-06.

**Attended by 6 Board members. No meaningful information regarding community involvement is described. No land areas identified, no land use or community use proposals described.**

KCLA minute of 12-10-06.

**Not seen.**

KCLA minute of 09-11-06.

**Not seen.**