

6 June 2012

Professor Sir John Vickers  
Warden  
All Souls College  
Oxford OX1 4AL

Dear Professor Vickers:

### **Transfer of responsibility to the Friends of Kensal Rise Library**

I am writing to you on behalf of the Friends of the Kensal Rise Library.

This community has been trying to save the Kensal Rise Library from closure and disposal for over eighteen months. We are writing now to suggest an approach that might help to resolve the situation.

As you are probably aware, there has been a recent positive change in Brent Council's attitude towards this building being run as a community library, consolidated last week by more specific assurances from the office of the Shadow Minister of Culture Dan Jarvis, who has been intervening on our behalf.

You will know from the extensive media coverage that the Shadow Minister was echoing protests against the closure of Kensal Rise Library supported most recently by the Royal Society of Literature, who issued a statement last week saying they were 'appalled' by the removal of books and commemorative plaques by the council as 'an act of philistinism bordering on vandalism'. The writers Philip Pullman, Alan Bennett, Michael Frayn, Claire Tomalin, Zadie Smith, Sir Michael Holroyd, Michael Morpurgo, Maggie Gee and Tim Lott have all supported the campaign to save the library, writing in national, international and local publications, and in some cases speaking publicly against the closure of this library.

As you may also be aware, a library we call the 'Kensal Rise Pop-Up Library' has run consistently on library land since the closure (13 October 2011). The use as a library stipulated in the covenant continues; for this and other reasons, it can be argued that the reverter has not yet been triggered. Certain factors in the situation remain fluid, which may assist in its eventual resolution. We do hope so because we wish to see All Souls College as our friends, just as the original Fellows were our benefactors.

However, we are writing to you concerning the position of the College in relation to the library in the event that the freehold is transferred to the College. The position that we understand the College has taken so far is that, if the library site is transferred back to the College, the College is bound under the requirements of charity law to realise the full market value of the property.

The Friends of Kensal Rise Library have taken legal advice on the charity law issues, and we understand that, in practice, the Warden and the Fellows have considerable discretion under the Statutes of the College. We are writing in the hope that the Warden and the Fellows would consider exercising this discretion in relation to a transfer of the site to the Friends of Kensal Rise Library.

Any disposal of land by a charity is subject to the requirements of the *Charities Act 2011*, particularly sections 117 to 123. The effect of those sections, briefly put, is that the College can transfer land without the consent of the Charity Commission if either:

- the College sells the freehold, or grants a lease, at the full market value (provided various technical conditions are met); or
- the Warden and the Fellows authorise a transfer at less than market value to another charity, where the property will continue to be used for similar charitable purposes under section 117(3).

The College does, therefore, potentially have the power under section 117(3) to transfer the freehold (or grant a lease) of the library at less than the full open market value to another charitable organisation with similar objects.

We suggest that the Friends of Kensal Rise Library, which is both a company limited by guarantee and a registered charity, is just such an organisation.

In relation to the requirement concerning objects, the charitable objects of All Souls College are: *"to pray for the souls of all the faithful departed and to promote the study of philosophy, arts, theology and civil and canon law"*.

In the Statutes of the College in section X paragraph 9, it is stated that: *"any surplus of the revenue of the College shall from time to time be applied by the Warden and Fellows at their discretion (subject to the Statutes of the University in force for the time being), to any purposes relative to the University and conducive to the advancement of learning, science or education"*.

We note also that the College's aims (as reported in the most recent set of accounts, for the year ending July 2011) are more widely cast, the first stated aim being *"to advance research and education"*. It is also clear, from the wide range of academic disciplines supported by the College, that the College does not regard itself as being confined merely to the study of philosophy, arts, theology and civil or canon law.

The charitable objects of the Friends are: *"to advance public education by running and/or assisting in the running of a library at Bathurst Gardens, Kensal Rise, London NW10 5JA for the benefit of the residents of the London Borough of Brent"*.

It is clear that both charities were set up to advance education. In the case of the College this is in relation to "the study of philosophy, arts, theology and civil and canon law", although in practice the Warden and Fellows, under the Statute cited above, also have the power to use surplus revenue of the College for "purposes ... relative to the University and conducive to the advancement of learning, science or education" and, as noted, take a broad view of the educative purposes of the College. In the case of the Friends, we seek to advance education by running a public library in Kensal Rise. The College generously acknowledged the educational needs of this community when it made its gift of the land in question in 1900 for a "Free Public Library and Reading Room".

Thus, as long as the Warden and Fellows of All Souls College ensure that the Friends continue to use the library building for purposes that would fit within the charitable objects of All Souls College, you could gift or transfer/lease the library at less than open market value to the Friends. You could, for example, impose a condition that the library building must be used to advance education. We are of course willing to adhere to such a condition.

If the Warden and the Fellows agree to such a transfer, it would not only restore to the community a much-needed facility, but would demonstrate your commitment to education in the broadest sense. It would show that the College is able to look beyond the merely financial aspects of this situation, and to recognise that the transfer of the library building back to the Friends of Kensal Rise Library would meet the spirit of the College's own charitable purposes as much today as their gift to our community did in 1900.

We look forward to hearing from you.

Yours sincerely,

Margaret Bailey  
Director and Trustee, Friends of Kensal Rise Library

Please direct any replies or queries to me at: [kensalriselibraryusers@hotmail.co.uk](mailto:kensalriselibraryusers@hotmail.co.uk)