

**This short statement is intended to give clarity to the position and intentions of HUGHENDEN PARISH COUNCIL (HPC) following the discussions which have been taking place with the trustees of the ALLOTMENTS FOR THE LABOURING POOR (AFLP)**

1. Discussions between HPC and the AfLP have been held in recent years with regard to some of the allotment sites or former allotment sites within the Parish of Hughenden.
2. These concern matters rooted in certain Inclosure Awards made in 1855 and 1862 whereby specified land within the Parish was set aside as allotment gardens for the use by the labouring poor of the Parish, held and managed by overseers of the poor and churchwardens of the Parish. On the establishment of Parish Councils under the Local Government Act 1894, when HPC came into being, the legal title of the allotment properties was transferred to the Parish Council.
3. HPC has acted as 'custodian trustee' of the original trust arising from the Inclosure Awards and in more recent times has appointed trustees to act in its administration thus assisting in effectively creating the establishment of a separate legally defined charity called the "Allotments for the labouring Poor", with its last action at the request of the Charity Commission being that of organising a co-option process for additional Trustees, held in summer 2013.
4. For many years money expended by HPC on managing, maintaining and improving all of its allotment sites has vastly exceeded any allotment rent received by HPC.
5. HPC has continued to hold the legal title of the lands concerned on trust for the AfLP. An issue arose concerning the entitlement to the proceeds of sale from the disposal of certain land to Buckinghamshire County Council ("BCC") in 1971 which had fallen within one of the Inclosure Awards and which had fallen into disuse as allotments, having been derelict and vacant since the Second World War, to form the site of what is now Widmer End Combined School in Brimmers Hill ("the Brimmers Hill site").
6. A number of meetings of representatives of HPC and the AfLP have been held over the years to consider the land ownership issues. It should be noted that a letter from the Chairman of the AFLP Trustees to the Chairman of HPC dated 22<sup>nd</sup> August 2013 indicated that 'we also deliberated upon engaging legal representation at this stage but have been much encouraged by you and your council's stated objective to settle this matter in a fair and reasonable manner... Trustees voted against disbursing our funds on legal costs at this present time'.

7. Despite repeated attempts by HPC to have a meeting of the full Working Group, it was only at the end of December 2013 that HPC received notification of that the AfLP had instructed solicitors who had prepared 'Draft Heads of Terms' which were then presented to HPC.
8. A full meeting between HPC and AfLP took place on 5<sup>th</sup> February 2014 as exploratory talks to start to consider the draft Heads of Terms. HPC subsequently sought its own legal advice and an opinion from a leading barrister specialising in charity and trust law was given at a conference with Counsel in London on 17<sup>th</sup> April 2014.
  - In essence the advice was that the HPC should transfer the legal title of specific allotment sites and other land remaining as had been originally comprised in the Inclosure Awards being:
    - Walters Ash Allotments
    - Louches Lane Allotments
    - North Dean Allotments
    - Windmill lane Allotments
    - The amenity land originally known as the Main Road Allotments Great Kingshill together with a strip of land comprising the play areas forming part of the Great Kingshill Recreation Ground

("called collectively "the Trust's Lands")

Counsel reminded HPC that in considering its legal duties and responsibilities towards the AfLP a wider duty was also owed to all Parishioners. Counsel advised that the disposal of the Brimmers Hill site to BCC in 1971 was not a breach of trust and HPC were entitled to utilise the proceeds of sale as they saw fit for the benefit of the Parish as a whole.

9. Prior to the subsequent full meeting of the Working Group, HPC had informal talks with the Trust's Chairman, so that no surprises would be raised at the full Working Group meeting as to the legal advice received. On 1<sup>st</sup> July 2014 the full Working Group met and the AFLP introduced additional aspects which had not previously been mentioned to or considered by HPC. As on earlier occasions the HPC members agreed to report back to HPC's Full Council. Minutes were subsequently issued by the AfLP, which HPC does not accept nor feel objectively represented

what took place.

10. HPC has not denied the beneficial ownership of AfLP to the Trust's Lands and reaffirms its willingness to transfer the legal estate to AfLP upon demand to do so.
11. So that HPC are not conflicted Counsel has advised that negotiations on arm's length terms whereby the Trust's Lands may be leased back to HPC should not commence until a transfer of the legal estate of the Trust's Lands has been effected. Subject to contract HPC has indicated a willingness to take a lease of the Trust's Lands on fair and reasonable terms and in order that the allotments, play areas and amenity comprised with the Trust's lands may continue to be enjoyed by current and future allotment holders and residents within the Parish for the foreseeable future.
12. On 8<sup>th</sup> July HPC's Full Council met to consider the situation, and agreed to confirm the resolutions made at the previous meeting, and to comment specifically on other aspects which were first raised at the meeting with the AfLP on the 1<sup>st</sup> July:
  - (1) To forthwith cease to keep confidential any further discussions with the AfLP. Where matters are subsequently discussed by HPC's Full Council, members of the Press or Public will not be excluded wherever possible.
  - (2) To re-confirm that HPC wishes to follow the advice of legal counsel, namely to transfer the legal title of the Trust's Lands to AfLP.
  - (3) To re-confirm that HPC will pay the reasonable conveyancing costs and disbursements of the AfLP with regard to the transfer of the legal title of the Trust's Lands (and it follows to authorise HPC incurring their own legal costs in such a transaction).
  - (4) To recognise that one half of the AfLP's legal costs they have already occurred relate to clarifying the position relating to Trust's Lands and to pay that sum (estimated as approximately £1550) in full and final settlement of any claim by the AfLP.
  - (5) For the avoidance of any doubt to declare that there was no breach of trust following the disposal of the Brimmers Hill site to BCC in 1971 and consequently that there are no damages or compensation due to the AfLP in respect of this; nor do HPC accept any liability to account to the AfLP for loss

of income in respect of any land comprised in the original trust.

(6) To be prepared to further discuss any of these aspects with the AfLP.

***Notes for editors and others:***

*Further information is available from the Clerk to the Council, Peter Wetherman by calling 01494 715296 or emailing [clerk@hughendenpc.org.uk](mailto:clerk@hughendenpc.org.uk)*