

Allotment Summary Report

Information regarding fiduciary duties:

Members of a parish council are democratically elected and have a fiduciary duty* to their local government tax payers. Since 1894 parish councils have been able to exercise functions and powers specifically conferred on them by legislation or by arrangements with another local authority.

A trustee has a fiduciary duty* to their charity; this means that in law they have a relationship of trust and confidence with it which imposes a duty of loyalty. Case law emphasises that they must have “single minded loyalty” to their charity, ie it is exclusive, and not dilutable.

A **fiduciary duty is the highest standard of care. From the Latin Fiducia, meaning “trust”, a person who has the power and obligation to act for another under circumstances which require total trust, good faith and honesty.*

1. History

- 1.1. The matter of allotments was first noted in the Parish Council minutes in July 2010.
- 1.2. The Parish Council sought expressions of interest and started to look at possible sites and costs involved. Adverts were placed in the Stradbroke Monthly seeking offers of land to be used.
- 1.3. The Parish Council minutes of May 2011 reflect that the Stradbroke Charitable Trust would be consulted on the matter of allotments.
- 1.4. A public meeting was held in August 2011. At the September 2011 meeting the Parish Council agreed in principle with the establishment of an allotment site for the village on whichever piece of land proved the most suitable. Subsequently, the Parish Council discounted one site and continued to investigate other possibilities.
- 1.5. In February 2012 the Parish Council minutes state: *“12.8.2 Allotments. Stradbroke Charitable Trust had negotiated with Mrs Randall for the purchase of a six acre plot of land off Drapers Hill, an ideal spot close to the centre of the village which would provide adequate space for allotments and possibly a community orchard and woodland. The area would be for the village in perpetuity....”*
- 1.6. The Village Gardens and Allotments were designated a Local Green Space in the Stradbroke Neighbourhood Plan adopted in March 2019. Policy STRAD10 states that proposals for development of the Local Green Spaces will only be permitted in very special circumstances.

2. Parish Council Statutory Duties/Powers

- 2.1. The Small Holdings and Allotments Act 1908 imposed a duty on councils to provide allotments if six or more people resident in the parish request in writing that the Parish Council to provide them, as follows:
 - *23(1) If the council of any borough, urban district, or parish are of opinion that there is a demand for allotments...in the borough, urban district, or parish...the council shall*

provide a sufficient number of allotments, and shall let such allotments to persons...resident in the borough, district, or parish, and desiring to take the same.

- *23(2) On a representation in writing to the council of any borough, urban district, or parish, by any six registered parliamentary electors or [persons who are liable to pay an amount in respect of council tax] resident in the borough, urban district or parish, that the circumstances of the borough, urban district or parish are such that it is the duty of the council to take proceedings under this Part of this Act therein, the council shall take such representation into consideration.*

2.2. Section 25 of the Small Holdings and Allotments Act 1908 states that:

"Acquisition of land for purpose of Act - The Council of a borough, urban district, or parish may, for the purpose of providing allotments, by agreement purchase or take on lease land, whether situate within or without their borough, district."

2.3. Notwithstanding the above power the Parish Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people.

3. Land ownership

3.1. The Land Registry entry shows that the ownership of the majority of the Allotment and Village Garden site is in the name of Peter Smith and Gerald Jenkins as Trustees of the charity known as the Stradbroke Charitable Trust.

Extract from the final page of the full Land Registry title: *"3. The land transferred will, as a result of this transfer, be held in trust for the Stradbroke Charitable Trust, a non-exempt charity, and the restrictions on disposition imposed by section 111-121 of the Charities Act 2011 will apply to the land (subject to section 113(3) of that Act)."*

3.2. Mrs Randall has retained a 12m x 9m portion of the site, for car parking. (see Map 1 - whole site)

3.3. In a submission to the Parish Council dated 14th October, the Trustees have stated the following: *"Under the terms of its agreement with Mrs Randall from whom the site was bought the Trust must not ever sell all or part of the site to the Parish Council. A relatively short-term lease (with options to renew) is permissible."*

Page 3 of the full Land Registry entry contains a clause as follows: *"Other. Application to note on Register – The parties hereto hereby apply to the Registrar for the entry in the register of the title allotted to the Property a restriction in standard form L in Schedule 4 of the Land Registration Rules 2003, namely: No disposition of the registered estate (other than a charge) by the proprietor of any registered charge not being a charge registered before the entry of this restriction, is to be registered without the written consent of Peggy Elizabeth Brenda Randall of Drapers Hill Farm, Laxfield Road, Stradbroke or her personal representatives or her conveyancer that the provisions of Schedule 2 of a contract dated 13 February 2012 between the said Peggy Elizabeth Brenda Randall (1) and the transferee (2) have been complied with."*

3.4. The transfer of the land to the Stradbroke Trust has not taken place; permission for the transfer is required from Mrs Randall and is subject to provisions in the Charities Act 2011.

3.5. There is an additional section of land at the top of the site, including a pond, it is not clear which organisation or person currently owns this land (see map 1 – whole site).

Map 1 – whole site



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Residential Property
18 Markis Hill, Diss, Norfolk, IP23 4WJ
www.gaze.co.uk

- 3.6. There is an agreement in place to allow access for 80 years from 2012 to the Allotment and Village Garden site and car park; area edged blue on the Plan 2 map. (see Map 2 - retained areas)

Map 2 – retained areas

