

This document titled 'Rec Trustees & PC reps meeting – March 12<sup>th</sup>', which was a confidential document, clearly sets out the history and complexity of the issues surrounding the Longhope Recreation Ground. Based on the contents of this document all former trustees of the Charity unanimously decided to voluntarily transfer trusteeship of the Longhope Recreation Ground to Longhope Parish Council.

## **Rec Trustees and PC reps meeting – March 12th**

This brief history will help give you a picture of where we are and why a resolution is required.

In 1946 the Longhope War Memorial Committee 'crowd funded' sufficient funds to purchase the land known as Blacksmith Meadow. It was their intention that a Recreation Ground (RG) be created for the whole village to make use of. The significant ground works required, along with the construction of a pavilion, were to be funded by a grant from the Ministry of Education and Science (MofE&S).

Upon applying for the grant from MofE&S the original application made clear that the property would be held in trust, with the Parish Council (PC) as Sole Trustee and the site managed by a management committee.

In 1947 the land was legally purchased by the Longhope War Memorial Committee, the Conveyance document makes clear that ownership was to be conveyed to the PC, who would hold and support it as a public RG. As such ownership passed directly from Fanny Bradley to the PC. (This Conveyance document is one of two governing documents for the current Longhope Recreation Ground Charity.)

At this time the first set of rules were drafted for a committee of the PC who would manage the ground on their behalf. This is the basis for the second of the Charity's governing documents.

Around 1971 the PC, as a result of increased road usage, were keen to improve the safety of the RG entrance. The PC hoped they may be able to donate a narrow strip of the RG to Gloucester County Council for use as a footpath. As significant sewerage works were being planned in Church Road the PC felt that this would be an ideal time for such works to be completed.

It was at this point that ownership of the land, and the legal authority to assign any part of it, became an issue.

It was realised, upon advice from solicitors and the MofE&S, that the 1947 conveyance created a charitable trust of which Longhope PC were the sole trustee. It also became clear, that no sale, lease or assignment of the land, nor changes to the Charitable trust, may be made without the authority of the Secretary of State for Education. This restriction is a result of the original 1946 grant from the MofE&S.

However, whilst this Charitable Trust should have been formally registered as a charity in 1947, for some unknown reason it was not.

The PC, acting upon the advice of solicitors, registered the Charity (of which you are now trustees) with the Charity Commission. It would appear at this stage, the PC remained quite correctly as sole trustee. The legal effect of this action was to place the RG, as an asset, within the registered charity.

We are, as yet, unable to explain why the trusteeship of the charity was allowed to be altered. However, as the governing documents do not allow such action, and nor was the permission of MofE&S sought, this act was likely unlawful. The effect of these actions is that the PC no longer have

any legal or financial interest in the RG. The PC are now a custodian trustee only, this means we simply hold the title to the property on behalf of the Charity.

Getting to this stage of discovery has taken a significant amount of work, and time, and the PC appreciate your patience during this process.

At this stage, there are two options.

**1. The current trustees remain in place and assume full responsibility and all legal liability:**

If the Charity remains as is, the PC has no legal interest in the property. All legal and financial responsibilities for the site rests with the trustees and the committee (who must all act as though they were trustees). They will have personal liability for any losses, as well as any claims arising from their management.

As the PC has no legal interest they will be unable to use public funds to support the RG or Charity. All insurance, operational, maintenance and improvement costs must be met by the Charity and RG committee. It should also be noted that no Vat reclaims or any other benefits, as previously received, would be able to continue.

**2. 'Course correct'**

Return to the intended legal position that was in place from 1947 until some point after 1972. By reinstating the PC, as a corporate body, as the trustee of the charity the previous unlawful act will be reversed, and the PC will regain the legal interest of the site.

The Pavilion and RG would continue to be managed by an elected committee. The PC can assist, if required, with the correct formation of a 'trading arm' to the charity. This will resolve the current situation where the charity is incorrectly conducting non primary purpose trading activities. This should minimise legal risk to the Charity, as well as minimising tax liability, and therefor help maximise the benefit from funds raised. In this scenario, if managed correctly, the PC can reclaim VAT on certain expenditure. The PC can also continue financially assisting the RG as a public asset.

A significant risk of continuing with option 1 is that if the RG Charity should begin to operate whilst insolvent the Charity Commission would be legally obliged to take over the assets, sell them, and pass the funds to the next nearest equivalent, potentially outside of the Parish of Longhope. If this position was reached the PC would not be able to 'bail out' an independent charity with public funds.

It is also worth considering the significant personal liability, both legal and financial, that falls upon all individuals involved with the RG. For this reason, if option 1 is chosen, the PC would highly recommend that independent legal advice is sought.

Whichever body manages/holds the RG going forward has a legal obligation to ensure the premises are well maintained and does not allow the charity to operate whilst insolvent.

To be clear the PC has no desire to 'take control' of the RG. The PC is keen to find a legal solution that will allow them to work with any group who can manage the site and fundraise for improvements. With option 2, the Charity and the day to day management of the site should be viewed as two distinctly different things. Not having the former does not prevent you having the latter.

