

Tracy,

## Agenda Item 21.1

Please see the message from Sharon Smith.

I have already asked you for sight of the scheme of 1907 which might give a clue as to the purposes for which the land was acquired but do you have any minutes, reports or other documentary evidence which surrounded the acquisition by the Council in 1978?

**Ian Davison**

Partner



**From:** Sharon T Smith

**Subject:** RE: Exchange of land at allotments Stratton St Margaret

Dear Ian

Thank you for your email behind this.

Can you explain why you have applied to register part only of the land comprised in the 1978 conveyance to SSMPC. This is of particular concern given that SBC needs to acquire land which has been excluded from your application.

This Council's property data manager has reviewed the conveyance plan and has prepared a modern version of it which is attached. I am also attaching a plan provided by the Highways Department showing the extent of the adopted highway hatched green.

The view of this Council's property assets department is that the PC's ownership abuts the surrounding adopted highway.

I am instructed to ask you to please amend your current application for first registration so as to identify the extent of your client's ownership by reference to the attached plan instead of the black line plan used previously.

Please will you also confirm that you will request expedition of your application on the ground that a disposal has been agreed.

Turning to the status of the allotments, I wonder whether you have been able to make any further headway in trying to clarify the matter, possibly by reference to the PC minutes recording the intention to acquire the land and the purpose for which the land was acquired. If it was acquired for some purpose other than allotments and a subsequent change of use was informal without any appropriation then the allotments may not be statutory. To be clear, if Secretary of State consent is required then it will have to be obtained by the PC prior to the transfer of the land to SBC because SBC has no power to acquire and hold allotments in a parished area.

We shall look forward to hearing from you.

Regards

Sharon

Sharon Smith

Principal Solicitor

For Director of Law

Swindon Borough Council

Email: [stsmith@swindon.gov.uk](mailto:stsmith@swindon.gov.uk))

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**From:** Ian Davison

**Subject:** RE: Exchange of land at allotments Stratton St Margaret

Sharon

I have the conveyance to the Parish Council which neither specifies the statutory powers, nor the statutory purpose nor any restrictive covenant. I have asked the Parish Council how the land is used because there is a presumption that if the land is used as allotments, then it is held for the purposes of the 1908 – 1950 Acts. Certainly from the photographs on-line the land is used as allotments.

Meanwhile I append a copy of the application for first registration which will also serve a deduction of title. I have asked Tracy for a copy of the 1907 scheme.

I should have thought that SBC should treat the land as held for the purposes of the Allotments Acts 1908-1950. It is clear from the 1978 conveyance that the land was purchased by the Parish Council and, if held for the purposes of the Allotments Acts, then s 8 of the 1925 Act (the requirement for consent) is engaged.

**Ian Davison**

Partner

**From:** Sharon T Smith

**Subject:** RE: Exchange of land at allotments Stratton St Margaret

Dear Ian

Further to your email behind this, I wonder if you have been able to establish whether or not the allotments are statutory. I am conscious that if there is a need to make an application for Secretary of State consent then time scales are rapidly becoming a matter of concern. My understanding is that such an application would have to be made by the Parish Council as the holder of the allotments but certainly we can assist as far as any application is concerned. I have the form of application and guidance notes to hand if required.

I have not had sight of any heads of terms as yet. I understand that conveyancing plans are being prepared. Perhaps the best way forward in the absence of heads would be for me to begin drafting a contract for review by your clients and yourselves. Do you agree? If so perhaps you would deduce your client's title.

I can confirm my instructions are that this Council will be responsible for the Parish council's reasonable costs in this matter. Are you able to give an indication of what these might be.

Regards

Sharon

Sharon Smith

Principal Solicitor

For Director of Law

Swindon Borough Council

Email: [stsmith@swindon.gov.uk](mailto:stsmith@swindon.gov.uk))

Web : [www.swindon.gov.uk](http://www.swindon.gov.uk)

**From:** Ian **Subject:** RE: Exchange of land at allotments Stratton St Margaret

Sharon

Thank you for your message.

I have already asked Tracy Predeth, the Clerk, for the original deeds in order to deal with the first registration. It should also enable me to determine whether or not the allotments are statutory. I note from the plan which has been sent to me that there is a cryptic reference to the owner in 1974 as being a charity.

Are there heads of terms?

Will the Borough Council be bearing the Parish Council's costs?

If consent is required, please confirm that the Borough Council will be responsible for the application.

**Ian Davison**

Partner

**From:** Sharon T Smith

**Subject:** RE: Exchange of land at allotments Stratton St Margaret

Dear Ian

We are pleased to note your interest in this matter.

Swindon Borough Council needs to carry out highway improvements at and near the White Hart Junction on the A419 and to that end I am instructed that an exchange of land has been agreed with Stratton St Margaret Parish Council whereby SBC will acquire part of the PC's allotment site (approximately the area of 3 or 4 allotments) and in exchange, upon completion of the road improvement scheme, SBC will transfer to the PC a nearby area of land for the provision of replacement allotments. I am awaiting conveyancing plans but a drawing showing the general area is attached. I am told that SBC needs to be on site in September of this year and that the scheme is intended to be completed in the Spring of 2021.

As you are aware the PC's title is not registered and we are keen to establish with certainty the extent of the land in their ownership. The other pressing issue, as you have identified, is whether the allotments are statutory and if so Secretary of State consent will need to be sought as soon as possible given the timescale for commencement of work. We should be glad to hear from you on both of these points.

Regards

Sharon Smith

Principal Solicitor

**From:** Ian

**Subject:** Exchange of land at allotments Stratton St Margaret

Robert

I have been instructed by Stratton St Margaret Parish Council in the matter of the land exchange.

It would help me if you could arrange for me to have some background material including the heads of terms.

I note that the title to the land is unregistered which is something which should be addressed. I am also conscious that if the allotments were purchased for the purposes of the Small Holdings and Allotments Act 1908 and are held for that purposes, the Secretary of State's consent to the disposal will be required.

I look forward to hearing from you. It would be helpful to learn of your contact in legal to enable the legal side of things to progress.

**Ian Davison**

Partner