

Mrs Catherine Nutting  
 Clerk : Plaistow and Ifold Parish Council  
 The Old Cottage  
 Barkfold  
 Kirdford  
 West Sussex  
 RH14 0JH

YOUR REF  
 OUR REF RST/ Plaistow  
 REPLY TO East Horsley  
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 UK 141174 East Horsley  
 DATE 28<sup>th</sup> May 2020

Dear Mrs Nutting

**Village Hall**

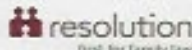
Further to our telephone conversation I confirm that I was approached by Councillor Taylor on behalf of the Parish Council for advice relating to the Village Hall. I was supplied with a copy of a Conveyance, and a Declaration of Trust.

By the Conveyance dated 9<sup>th</sup> June 1951 the Hall was conveyed to the Parish Council. It was subject to restrictive covenants but otherwise with no restrictions. It was therefore held by the Parish Council as Local Authority

On the 22<sup>nd</sup> March 1961 the Parish Council executed a Declaration of Trust whereby the Parish Council held the property on Charitable Trusts. This was a disposal of the property by the Local Authority to the Charity and consent to the transfer should have been obtained from the Ministry of Local Government. In the absence of such consent the transfer is void.

However the Declaration of Trust is a valid document creating a charity and the Charity Commission will take the view that this overcomes the defect of not having consent. We have had intensive argument with the Commission on this point and unless a Parish Council is prepared to take the matter to the Court of Appeal we must work on the basis that there is a valid charity and the property was transferred to it.

The Parish Council acts as the custodian trustee whose obligation is only to hold the legal title to the property and deal with any capital funds. We also advise that they should ensure that the property is insured. They have no other administrative function and must act in accordance with the instructions of the Managing Trustees



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Once a property is transferred to a charity it has to remain within the ambit of charity. It cannot be transferred out of a charity other than by way of sale, or subject to conditions, a lease.

There are no exceptions to this rule and therefore it is not possible for the Charity to transfer the property to the Local Authority other than by way of sale or in restricted circumstances, a lease.

It is possible, in certain circumstances, for the Charity to appoint the Parish Council as Managing Trustee, but even so the Parish Council has to deal with matters separately from its functions as local authority, separate meetings, accounts etc.

The Parish Council as local authority is able to make grants to the charity, but these should be in accordance with its grant making policy. The Parish Council, but not the Charity, can obtain a loan from the Public Works Lending Board. The Parish Council can then make a grant of those funds to the Charity (but cannot make a direct loan of them to the Charity) This spreads the cost over a defined number of years repayments coming from the parish precept.

If there are any queries on the above or further advice is required, please contact me.

As requested I enclose a note of my firm's charges for the Council's attention.

Yours sincerely



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