

COLNEY HEATH PARISH COUNCIL

- ✉ **Postal Address:** Highfield Park Visitor Centre, Hill End Lane AL4 0RA
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2024-25 Item 54

Briefing Document: Explanation of Legal Response Regarding Charles Morris Hall Charity and the 1935 Conveyance

1. Introduction

This briefing provides a plain-English explanation of the legal response regarding the status of the Charles Morris Hall Charity, the lease agreement governing the hall, and the legal background of the land on which the hall is situated.

2. Key Points

a. The Basis of the Charity:

The Charles Morris Hall Charity is based on the lease agreement for the hall, not the freehold ownership of the land. The "freehold" refers to outright ownership of the land, while a "lease" is a contract granting the right to use the land or property for a specific period.

b. Freehold Ownership and 1935 Conveyance:

In 1935, the freehold ownership of the land was transferred to the local authority through a legal document known as a conveyance. This means that the local authority, not the charity, owns the land.

c. Abolition of Mortmain Law:

The law of Mortmain, which historically restricted the transfer of land to corporate bodies (like charities), was abolished by the **1960 Charity Act**. The original purpose of the law, dating back to the Middle Ages, was to prevent land from being given to organizations in a way that would bypass heirs to the estate.

d. Exceptions to Mortmain:

Before the Mortmain law was abolished, there were exceptions that allowed land to be transferred to charities, but such transfers had to be registered with either the **Chancery** or the **Charity Commission**. If this was not done, the land could be seized by the Crown (government).

e. 1935 Conveyance and Charitable Trust:

Even though the 1935 Conveyance was properly recorded, it does not automatically mean that the land is designated as charitable land. According to the legal interpretation, the wording of the conveyance indicates that the land is held by the **Parish Council** as a local authority, with a specific condition about how the land should be used in the future, but it is **not held in a charitable trust**.

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f. Implications for the Lease and Local Government Law:

Since the hall is governed by the lease (not the freehold), any actions involving the lease are subject to **section 126 of the Local Government Act 1972**.

This law governs how local authorities can dispose of or lease their assets.

However, the lease of the hall could fall under exceptions that allow for community-benefit transactions, based on legislation from 2003.

3. Conclusion

The Charles Morris Hall Charity is based on a lease, not the outright ownership of the land. The land itself was transferred to the local authority in 1935 and is not considered charitable land, despite being properly recorded. Any lease transactions involving the hall are governed by local government laws, which include special provisions for community-benefit purposes.

This report clarifies the legal background of the hall and ensures compliance with relevant laws when managing the lease.

Notes on relevant legislation

1. **Section 126 of the Local Government Act 1972** deals with the **disposal of land** by local authorities in England and Wales. Essentially, it sets the rules for how a local authority, like a parish or district council, can sell, lease, or otherwise dispose of land and buildings it owns.

Here are the key points:

- **Consent Required:** A local authority typically needs the consent of the **Secretary of State** to dispose of land, especially if the disposal is at less than market value (below what the land is worth).
- **Exceptions for Community Benefit:** There are exceptions to the need for consent under section 126, especially when the disposal is for the benefit of the local community. The **General Disposal Consent 2003** allows local authorities to sell or lease land for community or social purposes at less than market value, as long as:
 - The difference between the market value and the disposal price does not exceed £2 million.
 - The disposal promotes the economic, social, or environmental well-being of the area.
- **Types of Disposal:** The term "disposal" can refer to selling the freehold, leasing the property, granting easements (rights of use), or otherwise transferring an interest in land.

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In the context of the Charles Morris Hall Charity, section 126 ensures that the Parish Council must follow specific procedures if they want to lease or transfer any part of the land. The key consideration is whether the lease serves the public benefit, which could allow for exceptions to strict market value rules.

A handwritten signature in black ink, appearing to read 'Mrs Peters'.

Mrs Lisa Peters LCGI PSLCC CPFA CiLCA
Parish Clerk & Responsible Finance Officer