

Your ref: -----
 Our ref: MJ
 Please ask for: Malcolm Johnston
 Direct dial no: (01424) 787700
 Date: 01 October 2009



Mr. R. Farhall
 Town Clerk
 Rye Town Council
 Town Hall
 RYE
 East Sussex
 TN31 7LA

Resources Directorate
Malcolm Johnston MBA MSc BSc(Hons) MCIEH
 Director

Town Hall
 Bexhill-on-Sea
 TN39 3JX

Dear Richard,

Rye Allotments

Thank you for your letter dated 23 September 2009.

I must state my disappointment that your Council has rejected the proposal to grant it a lease enabling the use of the land in question for allotments to continue. The proposal was a genuine attempt to resolve this matter, which was put forward on the assumption that your Council simply wished to safeguard the allotments. Your Council would be able to continue the provision of the allotments for the duration of the Lease, and the ownership of the Freehold would only become relevant in the event of the land no longer being needed for allotments.

In the light of your Council's decision I must confess I am unsure what it is that your Council wants. Furthermore, I do not understand what benefit your Council is seeking to achieve for its residents, over and above that which would be conferred by our proposal.

In terms of the final paragraph, it seems to me that it is inconsistent for a public authority to threaten another with litigation that would apparently deliver no practical benefit to its public and then propose arbitration or mediation. Neither do you detail the issue that would be referred to arbitration or mediation. Arbitrators and Mediators tend to be practical people, and if confronted with an argument about the legalities, they would be quite likely to propose the sort of practical solution that is already on offer. If your Council wishes to pursue a purely legal argument, apparently only as a matter of principle, I don't see how arbitration or mediation could help, because only the Courts will be able to determine such purely legal issues.

For the record, we do not dispute that your Council is the Allotments authority designated by the Local Government Act 1972. However this Council has its own powers, and even if it stopped providing allotments in your area, it would remain the registered proprietor of the land at the Land Registry. No evidence of the alleged delegation you refer to has been produced. Against that background, I really do not see what issues could realistically be



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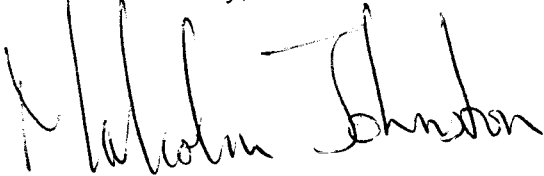


INVESTOR IN PEOPLE

referred to arbitration or mediation. Whilst arbitration and mediation may be cheaper than formal litigation, there would still be substantial costs involved which would be an unjustifiable waste of public money.

You have obtained Counsel's Opinion, which I believe suggested that a negotiated settlement was the most effective way forward. Furthermore, in a case taken to the Local Government Ombudsman the final letter from the Ombudsman stated "...the Council has offered to lease the land to you for 99 years, at a rent of £10 per annum and, if you feel able to accept this offer, it would avoid expensive legal action. In my view this represents a compromise which I cannot say is unreasonable". I think the exercise of attempting to prepare a formal Claim for legal proceedings with supporting evidence for a Court would demonstrate that the offer this Council has made is more than fair as a basis for resolving this matter in the interests of the public. I would therefore urge your Council to reconsider.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Malcolm Johnston". The signature is written in a cursive style with a long horizontal stroke at the end.

Malcolm Johnston
Director of Resources

Cinque Port Town of Rye

Rye Town Council

Richard Farhall MILCM
Town Clerk

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23 September 2009

Your ref: MJ/CA

Dear Malcolm

Rye Allotments

As you are aware, at its meeting held on 11 May 2009, Rye Town Council resolved to reject Rother District Council's suggestion that the land accommodating the two allotment sites be let to Rye Town Council on a long lease for a peppercorn rent.

The Town Council remains of the opinion that, under the LGA 1972, it is the lawful Allotments Authority for Rye. It has received advice that, in 1976, it effectively delegated the function of providing allotments to Rother and that the land associated with those allotments belongs to the Town Council.

Unless Rother accepts this view the Council will have no option but to apply to the Courts for a declaration. However, Members appreciate that this is a time of economic stringency for public bodies and that they should not be seen to be litigating against one another. Therefore, as an alternative, the Council is minded to consider a mutually agreed form of arbitration or mediation to settle this matter. If the principle of this is acceptable, the two authorities could then progress to discuss a suitable form.

Yours sincerely

Richard Farhall