



DROUGHT GARDEN (4) – LEGAL RESPONSE

Following the letter sent to JLG Investments Ltd on behalf of Stanway Parish Council the following response has been received:

Thank you for your letter of 2 February 2021, the contents of which is noted.

Please be advised, last summer, your clients contacted our agent to ask if we would take over maintaining the Land (using your definition) due to costs and problems with anti-social behaviour.

Via our agent, Tom Noble of Nicholas Percival, we were amenable to this and are surprised to receive your letter stating your clients request. We have always tried to retain a good working relationship with the Council, but we do not share the Councillors' belief that your client should be registered as proprietor and cannot agree to transferring ownership for a nil consideration.

Should your clients wish to make us an offer to purchase the land, then we will give it consideration but please note that, in any transfer, we would need to understand what the councils propose use would be and seek to impose a covenant on the land preventing any development without our consent.

We trust this clarifies matters for you and look forward to hearing from you in due course.

Regards,
JLG INVESTMENTS LIMITED
Colin Godfrey

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Molly Frankham notes that this letter does not accurately reflect the true nature of events but ultimately SPC cannot force JLG to transfer the land. Similarly, in the absence of a (strong or otherwise) claim against them to assert a stake over the land, SPC cannot allege a claim against them to seek cooperation either.

The problem is that without a viable stake over the land there is very little leverage SPC can draw upon to persuade JLG to make a transfer for nil consideration. If SPC wants to be the owner of the land, an offer will need to be made. It is possible to revert to them and confirm that given the time and money spent in maintaining the area, and the limited value of the land, SPC is not prepared to make a monetary offer. Furthermore, if SPC is not the owner, there is no reason to continue incurring maintenance costs (because, ultimately, there is no reason to). If there is a deterioration, then this will be for JLG to resolve. SPC can then ask that they reconsider the position.



Stanway

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Since SPC does not actually use the land, and that only local residents do, in which case, with no use and no ownership stake, it is possible to see the difficulties JLG will face in trying to pin liability for maintenance on SPC.

Molly Frankham advises that in terms of the costs for maintenance spent to date, unfortunately, recovery of these sums is unlikely. A second letter has already been sent along the lines suggested above.

If there is no desire for SPC to offer anything for the land – even a notional amount – then it would seem as though options would be limited to continuing to appeal to JLG; for instance, reminding them that SPC would no longer attend to upkeep and that the relatively low value land would probably start costing them money.

Councillors need to consider the following possibilities:

- 1. abandon all general maintenance including emptying the bins and clearing the rubbish.**
- 2. to obtain a valuation of the land in order to gage an offer.**
- 3. whether SPC is prepared to make a monetary offer for the land.**