

MINUTES OF A SPECIAL GENERAL MEETING OF THE DENHOLM FEUARS & HOUSEHOLDERS ASSOCIATION

IN DENHOLM VILLAGE HALL – WEDNESDAY 26th FEBRUARY 2025 at 7PM

Present: Lynn Ferguson (LF) (Chair), Lee Baines (LB) , Iona Cranston (IC), Dougie Crew (DC), Jane Currie (JC), Will Roberts (WR), Duncan Rollo (DR), Lisa Telford (LT), Jim Wilson (JW)

By invitation: Councillor Claire Ramage

There were approximately 70 members of the DF&HA present.

Claire Ramage introduced herself and welcomed everyone to this Special General Meeting of the Denholm Feuars & Householders' Association. She explained that she was at the meeting to act as adjudicator for the voting. Questions would be opened from the floor but a roving microphone would be used to hear everyone clearly. Some members of the village might have already decided how they were going to vote but others would be waiting until they heard what was said at the meeting.

LF thanked Claire Ramage for coming along to the meeting. She said that an OSCR ruling meant that there was a conflict of interest therefore Trustee, LB, would not join in discussions, and also IC was declaring a conflict of interest and not taking part in discussions.

She read her presentation as follows:

“Good evening everyone and thank you for coming here this evening to listen to our proposal. There will be opportunity for discussion after my presentation followed by a vote on what is proposed. In order to facilitate this smoothly and in a timely fashion, Will Roberts and Duncan Rollo will help manage questions/comments from the floor. Please respect the individual speaking by not interrupting them and recognise that we all have a right to speak. This meeting will not be dominated by a few individuals, it will be conducted in a fair and equitable manner.

I'd like to acknowledge the emails (plural) from a member of the association who is here tonight. They have conveyed to me that they perceive the proxy votes already made should be classed as invalid and not permitted to be counted. The emails were forwarded on to all Council members and a healthy discussion followed. A vote was taken and the majority vote was to accept the proxy votes.

We sought legal advice in late 2024 on how best to find a resolution to the problem this Council has inherited, and were advised in writing that the correct approach would be to canvass the community or hold an SGM to publicly vote on the matter.

The background to the discussion tonight is that areas of land were gifted by Mrs Mary Palmer Douglas in 1946. There is an associated sketch map to accompany this, I would like you to be aware that this sketch map has **no** measurements, **no** scale and is **wrongly labelled**. This document has been made available to residents to view by **this** council. I will continually refer back to the Deed.

The Deed of Gift states that “I, Mrs Mary Palmer Malcolm or Palmer Douglas ...desirous of making provision for the recreation and the amenity of the inhabitants of the village of Denholm. I have set aside certain areas of land in the said village for the use of the said inhabitants with the view of conveying the said areas to the council duly appointed by the Denholm Feuars and Householders as a gift from me to be held in perpetuity”.

Consequently, to facilitate this, our Constitution aims clearly state that it is “to administer, **in the best interests** of all the people in the community the ownership of the property and rights gifted”.

Please note that the Deed of Gift does not specify that the land can be rented or leased out and in fact it has been previously highlighted by a law firm (1993) that this may not be within the powers of the Feuars under the purpose of the deed if “it seems if you benefit one individual another occupier in the village could challenge that grant”.

The associated sketch map as previously stated, has no measurement, no scale and is wrongly labelled, which makes clarifying where the boundaries are between areas contentious and nigh impossible from the start.

Recent events have further highlighted the contentious nature of these areas within the village, and resulted in a court case being brought against a household by the previous council.

The household were successful in their defence of the case yet despite this the previous council proceeded to pursue registering the householder’s ground and brought about a second court action against the household which ultimately led to the election of a new council when previous council members either resigned or stood down following an outcry from the village when the extent of the previous council’s actions became more widely known.

We, as that new Council reached an agreement with the household, in line with advice given by Sheriff Paterson during the first case, to recognise the boundaries to their garden as they stand (and have done for the previous 30+ years), for new deeds to be drawn up reflecting this, and for a goodwill donation (between £500-1000) to be made by the householders to the charity. It was also agreed that costs will lie as they are and no application for expenses will be made by either party. This enabled the new Council to have the second court action dismissed as an agreement was in place.

£12000 spent in legal fees meant that the we had only £130 working capital remaining when we were elected as a committee and we had to close the investment account and transfer those funds to the current account to have a working balance in the bank - where is the amenity and recreation in this for the village, is this really in the best interests of the village?

It should be noted that details of either court action are not up for discussion this evening, we as a Council cannot answer for or speak to the actions and decisions of the previous Council, nor are we prepared to. We stand by the agreement, unanimously reached as a mechanism for dealing with the situation we have inherited.

Furthermore, registering of this ground in 2023 has directly impacted two other households, creating further confusion and contention and a situation that will have to be resolved. This could possibly be a further 3 court cases raised by these households.

The current legal status of DFHC is that it is an unincorporated charity which means the trustees, namely the Chair, Vice chair and Secretary are held accountable and will be held responsible for these legal costs. This Chair and the other two trustees will categorically not be making cash donations to fund this as has been done in the past.

Central to this is the Deed of Gift, with no measurements or scale and wrongly labelled, as the only document held to prove Feuars' ownership.

In the last few years the cart track down Riverside Drive has been "lost" from the Deed of Gift to the residents' association when they raised a title for it in order to improve and maintain the road and area. There is also evidence that part of an area known as the Bleaching Green was sold to Roxburgh Council for the houses in Murray Place to be built, we do not know which area of land this specifically pertains to.

Currently there are 8 small plots which historically have attracted monetary income, assigned from a sketch map with no scale or measurement, and previous legal advice saying it wasn't within the Feuars' power to do this. Of these 8, 5 have not paid any monies and 3 are in dispute over boundaries and there is potential for further dispute with the remainder. Referring back to the legal advice from 1993 "it seems if you benefit one individual another occupier in the village could challenge that grant" the Council decided, in fairness that all affected plots should be offered in line with the agreement, from the advice given by Sheriff Patterson. However the Council feel that Plot 1 is still able to fulfil the Deed of Gift as an area of amenity and recreation for the village. Plots 3a and 3b are currently leased as allotments and if the householders are in favour then these 2 plots would not be offered up for transfer as again the village is able to have amenity and recreation in these areas.

All of this leads to the question you will be asked to vote on - do you agree to the proposal that the areas of gifted land are made available, without prejudice, to the households who have been directly impacted, without legal challenge.

We are here this evening as stated at the beginning – to canvass the opinions of the village. The opinion of the village will be conveyed back to Morton Fraser & McRoberts.

IF, the outcome is that no transfer can take place, the likely outcome would then be the dissolution of the Charity. There are insufficient funds to fight any future court cases. This should not be taken as a threat but understood it's as a consequence of mismanagement over the years albeit with previous Councils' understanding that it was their best intention for the village. There is no blame being cast by this Council. Every Council member is a volunteer and give what time they can freely.

We cannot move forward in our current state - to move to a SCIO or Development Trust means a transfer of assets, but remember there is still a dispute over the legal title of some of these areas so there can be no transfer of assets until a resolution is made. The current legal burden on Trustees will be removed by the formation of a new organization.

Our focus, going forward should be on the areas which are clearly communal, the Green, wee Green, Quoting Haugh, Fisherman's Carpark, Lower Dean, telephone exchange and wee playpark which enable us to provide recreation and amenity for the village, in the best interests of the village, fulfilling our obligations from the Deed of Gift and our Constitution.

We have so much to look forward to: the solicitors are waiting to approve the proposal for two EV charging points in the Fisherman's Car park, a rental income opportunity for the village, Foundation Scotland have approved funding to carry out an electrical survey to improve the supply to the Green so that events on the Green have a proper supply. This will also help with lighting around the monument with more energy efficient LED lights as well as our Christmas tree and the surrounding ones.

We have upcoming events - VE Day picnic to celebrate 80 years since the end of WW2, the rideout, the Jimmy Guthrie run, the Hizzy run.

Last year the car boot sales held on the Green raised more income for the Feuars than the rents collected in 23/24! We plan to hold a car boot sale every month from April to October which will generate income.

The Dean - thanks to the hard work of the sub-committee it has been cleared of non-native species, replanted, new hedging planted, new steps and new pathways under construction and they have just produced a 10 year management plan. They are planning to hold a sponsors day event in the Dean followed by a picture exhibition at a later date. They have managed to get sponsorship and funding for projects.

We would like the village charity to be fit for purpose, meet its original purpose to provide genuinely communal spaces that are clearly defined, allowing people who wish to join community activities the confidence that it has a strong framework, equal for all and banish the tarnished reputation that has dogged us over the years and go forward with improving the village for all.”

The Chairman said that everyone had a right to speak and asked to please respect all speakers and their opinions. An email had been received querying whether proxy votes should be allowed. A meeting of the committee had been held and a vote taken to accept proxy votes.

She asked for questions from the floor:-

From the floor – a resident said that “ he understood that the previous Feuars‘ Council went to Court twice and lost twice. Sheriff Paterson had said there was not enough proof DF&HC owned the land and said for everyone to go away and draw a line under things He had heard that there was a land grab going on. A group of individuals thought it clever to register the land after they lost the court case. When you register land there is a box you have to tick confirming you don't have a conflict of interest. There was a conflict of interest and they had just lost their case. So how was the land registered? They were under a legal obligation to tell the truth, so how was that land registered”.

The Council replied that they did not think they were able to comment as this was an action from the previous Council. They did believe that in 2023 a title was raised for an area called the East Bleaching Green which incorporated all of the land behind Two Hoots and Larach Dene and a further chunk from the garden at Rubersvale. These are the 3 areas that have become a conflict.

From the floor – another resident asked “reference the plots of land occupied by households – it is my understanding that these households have had to pay additional fees”.

The Council replied – they were invoiced for a lease to occupy that land and have been charged a rent.

From the floor – the same person then said “she had some empathy at this point, with the rise in cost of living and with people struggling to pay for food and heating and other bills, why should it be that some people were unfortunate enough to move into properties where they had to pay additional fees. I do not think it’s fair”.

The Council replied that there was evidence of correspondence dated 1993 from solicitors in Hawick saying that they did not think it was within the Feuars’ right to charge a rent because it was not stated in the Deed of Gift, the Deed of Gift said it was for the amenity and recreation of all the village.

From the floor –“ I served as Chairman and served on the DF&HC for around 18 years. So quite familiar with the somewhat toxic nature of the DF&HC. When attempting to buy Seton Cottage there was piece of land in front of the cottage – around 10m2 - no-one owned it, I had to indemnify that land and it cost me £800 to indemnify land and that was 20 years ago. When I was chair of Feuars, every household in Riverside Drive took the Title to the cart track. We spoke about it and tried to resolve the issue. The land in question was signed over to the residents in 1998. My question is how is this land going to be valued”?

The Council replied - that it came back to the problem that that land had not been measured as there was no scale on the Deed of Gift. What size are we talking about - 2 inches or strip of 2ft or 6ft? There is no way to know – we are following Sheriff Paterson’s recommendation of a donation between £500 and £1000. It has also been suggested that there should be a possibility of charging ten times the annual rent, these rents are peppercorn, some are charged £50 and some £92, so ten times that value would fall into Sheriff Paterson’s recommendation of between £500 and £1000.

From the floor – the same person asked if that land would have to be deeded at some point.

The Council -replied, that Yes, but that will be the householders’ responsibility if they decide that they want that land. Sheriff Paterson’s recommendation is to recognize the boundaries as they stand.

From the floor – the same person then asked “you have no way of diagramming or recognising size of land, am I correct????

The Council - No.

From the floor – “Surely there would be Deeds and these measurements would be on these Deeds, so could be measured”

This was answered by the floor with the Chair’s approval that “the Deeds in question were on Sasines which relies on verbal description with no measurements

From the floor – “as I am sure most of you are aware I, along with my partner, was the person in Court. There is a lot I will not say this evening however there are some things I will confirm. Both the Deed of Gift and our Deeds which are in the old form of Sasines, that

is a description not a map form, they were in front of Sheriff Paterson. The advice made was this way, it was a way to draw a line under it and for the village to move on, the alternative is lengthy, costly court cases which quite frankly are of no benefit to anyone. So, our deeds and the Feuars' Deeds have been in front of the Sheriffs.

From the floor – “I understand that land Two Hoots claimed and the land at Larach Dene were encouraged by neighbours not to pay their rent. Their land is not outlined in red, outside walls are in red in their title deeds, so they did not own land behind house. You would imagine that the house next door would be the same. The register was not updated until the property was sold. So there is difference between the two properties. When 1990 Building Warrant application was submitted by builders. This Building Warrant application maintained at time of sales and that was changed and re-submitted because they were not allowed to build on that land. That is why these two houses now were built because this land was not owned by people going to buy the house. One stopped paying rent and encouraged their neighbours to join in. Reference Court Case defendants had submitted high amount of expenses, and I would like the people concerned to explain the result of the expenses claim. What was the difference in the expenses claims.

From the floor – “You should be fully appraised as you were on the previous Council”

The Council confirmed that they were not able to discuss the Court cases.

From the floor – “you are saying that the land was originally gifted and there were maps but with no measurements. Is there any other proof of the land that was gifted?”

The Council replied – we have a copy of the Deed of Gift and what's been registered in the Register of Sasines and associated map – the map is available on the laptop if anyone wanted to see it. It had been planned to show the map using a projector but there had been problems linking laptop to the projector.

The map has no measurements, it only has a North compass and that's all. It has been clearly labelled wrong, it has the back road called the Loaning.

From the floor – “it may not be on the Deed of Gift but is it set out in the register of Sasines what size the land was and precisely what land was gifted. Surely there has to be some proof that Mrs Palmer Douglas actually owned the land that she was turning over to someone else. Was it measured at that point? People have understood for some time what land belonged to the Feuars.”

The Council confirmed that, as already pointed out, the Register of Sasines did not give dimensions.

From the floor – I want to declare an interest, I am Chair of the Dean Committee – to hear tonight that the Council might collapse or give up is absolutely unthinkable, I have no idea what we would do from that point onwards. I think it's an opportunity to move on tonight, we should grab it.

From the floor- 13 times we have attended court - I can stand in front of the village with confidence that I have done nothing wrong. We have been subjected to some horrific behaviour and, as Tom has just said, right now is a momentous moment for this village to

move on. No more fighting, no more argument and concentrate on the central areas and draw a line under it. I sincerely hope this village gets those salient points and also to thank these committee members sitting at the top table, it was brave of them to step up and let the village know what was going on. These people have been brave enough to sit here and propose a way forward and let us move on. I really hope you appreciate the efforts that these people have made for this village.

A member of the Council wanted to briefly talk about the good side of Denholm – we have so many facilities and then described a range of positive, beneficial and celebratory factors that relate directly to our community and encouraged those present to look to the future..

From the floor – I am a member of Dean Sub-Committee so I declare an interest, but am also a tenant of one of the plots, Plot 3B – and I am just looking for clarity, what will happen to the plots, and if the tenancy would continue.

The Council replied - that under the terms of Deed of Gift he probably should not be charged a rent. This will need further discussion, at a later date, probably face to face with tenant. We don't envisage closing them off, and evicting anyone. The vote is for plots which are contained within gardens, that the village has no access to, unless via someone's house or need to take a hedge down, or a fence down. We are looking at Two Hoots, Larach Dene, Rubersvale, Riverside Drive and Minto Gardens.

From the floor – “I had heard that there were rumours going round the village that I have been posting on Facebook under the name of John Smith. If the person who started these rumours was brave enough to stand up and face me? I can quote my actual name and that is the only name I use. Reference the question that has just been asked, I think that he has not been given sufficient answer. I would like proposal made clear and precise. In constitution it states that assets cannot be disposed of “except to further its charitable purposes” I haven't heard you tonight say exactly what land is to be transferred.

The Council acknowledged that, what we are asking is for, is the proposal for us to transfer ownership of 5 out of 8 plots of land which are attached to back gardens allegedly.

From the floor –the same person said “ I think you should re-word the voting slip, re-wording in terms of what you have just said so it is clear what land is being transferred. I would like proposal to be precise”

The Council asked if anyone else had an issue with what we have been saying tonight? Does anyone not understand?

There was a general acceptance that everyone understood.

The Council stated that we had a list of plots, if you agreed with the way they are drawn is one thing but they are identified by numbering, e.g. 4 Minto Gardens is Plot 2, 3 Minto Gardens is 3a and 3b, Riverside Drive is 5, 5 Riverside Drive is 6, the Green is 7 and Rubersvale is 8. This is clear. This has been used in the past as a means of charging rents for plots.

From the floor – “I disagree with that document. It was not used in Court. The only thing that could be used to detail pieces of land was the Deed of Gift. No measurements, question what we would be gaining if it was households in the first place. The Court has put a way forward and new solicitors have shown a way forward. We need a solution and a way forward. The only thing that was used in the Court, and only plan that can be used is original Deed of Gift, which has no scale. That is not part of their Deeds.

The Council then asked for everyone to vote a Yes or No. It was possible to abstain if a person so wanted.

From the floor – there was a query about lands at 3 Minto Gardens and decking at Riverside Drive.???

The Council confirmed that 3 Minto Gardens have been charged rent for part of their garden ground, and decking at Riverside Drive had been charged for two posts, but there was no plot of land involved.

Councillor Ramage officiated at voting and counted the votes.

Gwen Crew provided refreshments.

Result of the voting was:-

For:	120
Against:	16
Damaged paper:	1

A round of applause was afforded to the Committee and the Chair thanked Councillor Ramage.