

Letters to the Editor

From the Hampstead Garden Suburb Trust elected trustees

Sir,  
In September 2007 we were elected Trustees of the Hampstead Garden Suburb Trust. In offering ourselves for election we said that we would work for the institution of a progressive charge. This letter is by way of explanation of the position of the Trust Council since then.

In October 2007 the Trust Council decided unanimously that the Trust would withdraw its opposition to the application for a progressive charge.

The fundamental reason for this was the Trust Council believed that, whatever the views of individual Trustees in their private capacities, as Trustees they it could have no especial grounds for arguing that, in principle, one way of levying the Management Charge was better than another.

The Trust, of course, until its resolution of neutrality, had formally and systematically resisted the application. In

January, after discussion with the Chairwoman of the Leasehold Valuation Tribunal, all four elected Trustees on her recommendation withdrew from the application in order to avoid the imputation of a conflict of interest. While exemplarily proper, this makes no real difference to the situation. The Trust's position of not taking sides in the debate on the Charge means that, as Trustees, there are no decisions that they have to take which can be held to conflict with any of their positions or responsibilities as private individuals.

The Trust Council again felt that while public debate on the Charge was to be encouraged the arguments both for and against a progressive charge had been thoroughly argued before the Leasehold Valuation Tribunal and the Council did not know of any further arguments for or against the present arrangements that needed to be made.

In April of this year the Leasehold Valuation Tribunal

rejected the first part of the application for a progressive charge – the argument that the present arrangement is unreasonable by virtue of being unfair. Mr Andrew Botterill who, in September 2007, made the successful appeal against the LVT's earlier ruling that it had no jurisdiction over the application, has applied for leave to appeal against this latest decision by the LVT but has been refused. He is now applying to the Land Tribunal.

As individuals who are strongly in favour of a progressive charge, we are grateful to Mr Botterill for his continued pursuit of the application. As Trustees we will be obliged to administer whatever method of charging is ultimately decided by the courts and we do not believe that it would be right to use the Trust's funds to make any further representations on the issue of fairness.

Yours,  
Pia Duran; Geoffrey Marriott; Richard Wakefield; Angus Walker

any concerns about the charge would be raised with me at an early stage; I am always pleased to meet residents and discuss queries.

However any Management Charge payer may approach the Leasehold Valuation Tribunal for a review of any aspect of any charge, (including the Management Charge), made by the Trust. These aspects include the amount, by whom it is to be paid, to whom it is to be paid, when it is to be paid and how it is to be paid.

Mr Iwi also asserts that members of the Trust may not table a resolution at a meeting of the Trust without the Trust's Council's permission. This is not necessarily so. The Companies Act 2006, the provisions of which override in this respect anything to the contrary in the Memorandum and Articles of any registered company, provides for members to require that a General Meeting is held to consider a resolution which they have put forward.

Yours  
Jane Blackburn, Trust Manager

48 Erskine Hill, NW11

Sir  
**Clubhouse and Museum Project**  
In the last issue of Suburb News I wondered, in a letter, whether it might be possible to enlarge Fellowship House to create space for a small museum to display Suburb memorabilia on a permanent basis and also some additional meeting space. Since then things have moved on and ideas have expanded. With the blessing of the Residents Association and the



The old clubhouse

HGS Archives Trust, a small working group has been set up (as an RA sub-committee) with the brief to investigate the potential for creating and leaving for future generations, as a legacy of the Suburb Centenary, a building to house:  
• a small museum in which to exhibit some of the Suburb's memorabilia together with material relevant to those who come to HGS from far and wide to study its world-renowned urban design and architecture; and  
• a community centre in which the young people of the Suburb could meet and socialise, as well as extra meeting space for Suburb organisations.

The objective is to create a social focal point for the Suburb – something that has been missing since the original Clubhouse was destroyed by bombing during the Second World War. A number of candidate locations might be considered including the Tea House, the Central Square electricity sub-station site, the St Jude's church rooms and the adjoining land, and Fellowship House.

The Fellowship House site is a prime candidate. It is an existing social centre and, as the location of the Suburb's original Clubhouse, offers the potential to recreate at least some of the iconic architectural character of the original building –

perhaps including its Tower to mark the Suburb's social heart. At this stage, this is only the germ of idea and we would need the agreement and support not only of Fellowship but also of the Trust and Barnet, not to mention huge amounts of money. If the project were to get the go-ahead, be it at Fellowship or elsewhere, we would be begging you and all Suburb residents and businesses for large donations.

Initially, as we develop our ideas, we would like to tap into the expertise that we are sure exists among residents of the Suburb. Are you a quantity surveyor/project manager, structural/services engineer, landscape architect/designer, health and safety expert, fundraiser or potential donor? Would you be willing to join our working group and help us prepare a feasible proposal with which to bid for some of the RA's centenary seed money and obtain support for taking the project forward through planning and funding?

If so, please get in touch with me as soon as possible by phone: 020 8455 6507 or email: marjoriebarris@btinternet.com. (Also please get in touch if you know where to find plans of the old Clubhouse.)

Yours,  
Marjorie Harris, Secretary to the Working Group

9 Raeburn Close, NW11

Sir,  
**The Trust's Management Charge**  
Freeholders are all too familiar with the recent escalation in the management charge, far in excess of the rate of inflation, even though for many years increases had been kept roughly in line with that rate.

However it was at least assumed that there were two effective caps on the amount that could be recovered. These caps have however been removed by two recent and surprising decisions.

First, there is the provision in the Scheme of Management that requires the amount of the Trust's expenditure of operating the Scheme in an economical efficient and consistent manner to be certified by the Trust's auditors. That protection has been discarded because the leasehold valuation tribunal decided that the management charge can be recovered without there being such a certificate from the auditors.

Secondly there is the provision in the Commonhold and Leasehold Reform Act 2002 that a variable estate charge is only payable to the extent that the amount of the charge is reasonable. The Trust was

successful in defending the recent increase in the management charge because the leasehold valuation tribunal accepted that the amount claimed was reasonable. However the Lands Tribunal has since ruled that the Suburb management charge is not for this purpose a 'variable' estate charge. This means that the statutory limit on only recovering what is reasonable will not apply. It will not be open to residents to apply again to the leasehold valuation tribunal and obtain a ruling whether future expenditure is reasonable.

There are no doubt speculative arguments as to how there might be an implied cap despite these rulings. However on any footing we are left with at any rate no clear limit on the amount that is recoverable and no clear machinery for challenging it. The prospect that the Trust may be entitled to a blank cheque must be of major concern to freeholders. Similarly solicitors acting for buyers or lenders may well consider themselves obliged to point out that the position is unsatisfactory. The Scheme urgently needs amendment to put in place a clear and enforceable safeguard.

Although the matter was pointed out to the Chairman of the Trust last December, no remedial steps have been taken

or promised. He has insisted on waiting for a further ruling from the leasehold valuation tribunal on another matter, even though it has nothing whatever to do with whether there is a cap on the amount of the expenditure that is recoverable and only relates to the apportionment of the expenditure that is recoverable. In the meantime freeholders are exposed to the risk that they may have an unrestricted liability. Only concerted action from residents can achieve an expeditious and satisfactory outcome.

One might think that the logical step would be for members of the Trust company to table a resolution calling for a change at a meeting of the company. However there is an almost unbelievable provision in its constitution that, to table a resolution, the prior consent of the Council is required. When I was a member of the Trust Council I unsuccessfully attempted to get it to agree to the provision being removed.

To protect their interests, residents need to make it clear that this provision must be removed and an effective cap put in place on the amount of expenditure that can be recovered.

Yours  
David Iwi

862 Finchley Road, NW11

Sir,  
In his letter to the Suburb News Mr Iwi asserts that Management Charge payers are exposed to a risk that 'they may have an unlimited liability' with respect to the Management Charge.

The Trust has taken legal advice on the assertion and is advised that this is not the case.

The Trust is required by the terms of its Scheme of Management to administer the Scheme 'economically, efficiently and consistently'. Breaches of this requirement are grounds for complaint to the Leasehold Valuation Tribunal. Under the 2002 Leasehold and Commonhold Reform Act, the Tribunal has jurisdiction over all aspects of the Management Charge.

I would of course hope that

HENRIETTA BARNETT SCHOOL SUMMER FETE

12.00-3.30PM SUNDAY 13TH JULY 2008  
ENTRANCE IN BIGWOOD ROAD

18's and under: Free Entry - £1 Entry Fee for Adults  
If it rains, we still have room indoors for everyone!

Art, Books & Dvd's, Book Marks, Children's Clothes, Embroidered Shawls, Greetings Cards, Hand-painted Scarves, Jewellery, Plants, Rose Bushes, Second Hand HBS Uniform

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|                |       |  |
|----------------|-------|--|
| SATURDAY 14th  | 12.45 | <b>Finchley Children's Music Group</b> Grace Rossiter musical director, Tansy Castledine choir conductor & John Evanson accompanist. Britten, Lutoslawski & Sallinen   |
|                | 7.45  | <b>Gala Opening Night</b> London Chamber Orchestra, Robert Max conductor, Tamsin Waley-Cohen violin & Gemma Rosefield cello. Mozart's <i>La Clemenza di Tito</i> overture, Brahms' Double Concerto; Grieg's <i>Two Norwegian Airs</i> & Schubert's Third Symphony                    |
| SUNDAY 15th    | 7.45  | <b>Opera Evening</b> London International Orchestra & Pegasus chorus. Toby Purser conductor, Gail Pearson soprano, Victoria Simmonds mezzo-soprano, Rhys Meirion tenor, David Kempster baritone. Verdi, Rossini, Bizet, Tchaikovsky, Puccini, Mozart & others                        |
| MONDAY 16th    | 12.45 | <b>In the Free Church, North Square NW11 Organ &amp; Violin Recital</b> Nicholas Chalmers organ & Hannah Smith violin. Bach, Harris, Rüttli & Grainger   |
|                | 7.45  | <b>Together &amp; Solo</b> world-famous classical guitarist John Williams with jazz guitarist John Etheridge   |
| TUESDAY 17th   | 12.45 | <b>Vardanyan Quartet</b> Prize-winning former students of the Royal College of Music. Haydn & Dvořák   |
|                | 7.45  | <b>Jazz Night</b> An evening with star singer Stacey Kent & her band   |
| WEDNESDAY 18th | 12.45 | <b>Guitar Recital</b> Maud LaForest. Aguado, Rodrigo, Handel, Pujol & Regondi  |
|                | 7.45  | <b>Red Priest – Pirates of the Baroque.</b> Piers Adams recorders, Julia Bishop violin, Angela East cello & Howard Beach harpsichord. Stolen masterworks and long-lost jewels of the baroque era   |
| THURSDAY 19th  | 12.45 | <b>Family Concert</b> Nonesuch Orchestra William Carslake conductor. Purcell, Biber, Corelli, Warlock & Walton   |
|                | 7.45  | <b>Brodsky Quartet</b> Daniel Rowland & Ian Belton violins, Paul Cassidy viola & Jacqueline Thomas cello. Purcell, Puccini, Schubert & Ravel   |
| FRIDAY 20th    | 12.45 | <b>In the Free Church, North Square NW11 Cello &amp; Piano Recital</b> Hannah Sloane cello & Paul Smith piano. Beethoven, Janáček & Schumann   |
|                | 7.45  | <b>Celebrity Piano Recital</b> Imogen Cooper. Haydn, Bartók, Liszt & Schubert  |
| SATURDAY 21st  | 12.45 | <b>Piano Recital</b> Evelyn Berezovsky. Beethoven, Medtner & Schumann  |
|                | 7.45  | Unmissable, chart-topping <b>Fron Male Voice Choir from Wales</b> Ann Atkinson musical director & mezzo-soprano, Alwena Nutting piano. Welsh songs, folk songs, songs from films, spirituals & operatic arias  |
| SUNDAY 22nd    | 7.45  | <b>Last Night of the Proms</b> Southbank Sinfonia Simon Over conductor, Nicola Eimer piano, Deborah Calland trumpet & Grace Durham mezzo-soprano. Walton's <i>Crown Imperial</i> , Beethoven's Fourth Piano Concerto, Haydn's Trumpet Concerto & traditional <i>Last Night</i> music |

Box Office: 020 8458 1582 (2-6pm Mon- Sat)

www.promsatstjudes.org.uk

Guided Heritage Walks: June 14, 18 & 21 from the Garden Suburb Gallery

Concerts: Lunchtime Free • Evening tickets £8 to £20

Light refreshments: sandwiches, snacks, beer, wine, tea & coffee available

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