

The Parish Council announced its intention to close the Heyes Lane Allotment site in 2011 to provide a new Car Park which would ensure the success of the new Medical Centre, the refurbished Festival Hall and to meet the challenge of all-day parking within the village, especially within residential areas.

The Parish Council was told, by critics and interested parties alike that 'As the Heyes Lane Allotments are Statutory, permission from the Department of Communities and Local Government (DCLG) was required to close the site'. This view was also expressed by the National Allotment Association.

The Parish Council has demonstrated that the Heyes Lane Allotments are recorded as non-statutory on the 1952 map and as Statutory on the 1973 map, both signed and sealed and held in the Cheshire County Archive.

The Parish Council contacted the DCLG to determine whether or not the Heyes Lane site was covered by S8 of the Allotment Act – ie did the Parish Council require the permission from DCLG. This was the reply received from the Department.

“Whilst there is no statutory definition of a statutory allotment, the term is generally applied to those allotments for which consent is needed to dispose of. Section 8 of the 1925 Allotments Act states that this is where "a local authority has purchased [or appropriated] land for use as allotments". Whilst it is not for DCLG to give legal advice on how this legislation should be interpreted, we understand that a council may designate allotment land as statutory and then, on taking further legal advice, realise that consent would not be needed for disposing of such land and so reclassify it as non-statutory.”

“Ultimately, it is for a local council - parish or principal district/unitary council - to seek their own legal advice with regard to whether or not allotment land should be classified as statutory and therefore need consent for its disposal.”

Following the advice given by DCLG, the Parish Council sought opinion from the Legal Council who appeared in the Snelling vs Bursford Parish Council case which was a major test case at the Court of Appeal in November 2013.

This opinion can be found here.....

In summary, the Heyes Lane Allotments are located on part of the land which was gifted to the village of Alderley Edge in 1950 for community use, including, but not restricted to, Allotments. Alderley Edge Urban District Council classified the land in 1952 as “Allotments”, and then prior to 1973 re-classified the land as “Statutory Allotments” and in 1974, the land was transferred to Macclesfield Borough Council. Further Local Government reorganisation saw control transfer to Cheshire East Council.

The Legal Advice given to the Parish Council from Legal Counsel at the heart of the most recent example of Case Law, is that Heyes Lane Allotment site is not covered by S8 and AEPC can proceed to appropriate the land to a different use class, in accordance with S126 Local Government Act 1971.

Accordingly, the Parish Council changed the status of these Allotments to non-statutory at a Special Meeting held on 29th September 2014.