

12760
11 11
DATED 19 December 1995

THE METROPOLITAN BOROUGH
COUNCIL OF STOCKPORT

- and -

WHITEHILL ALLOTMENT SOCIETY

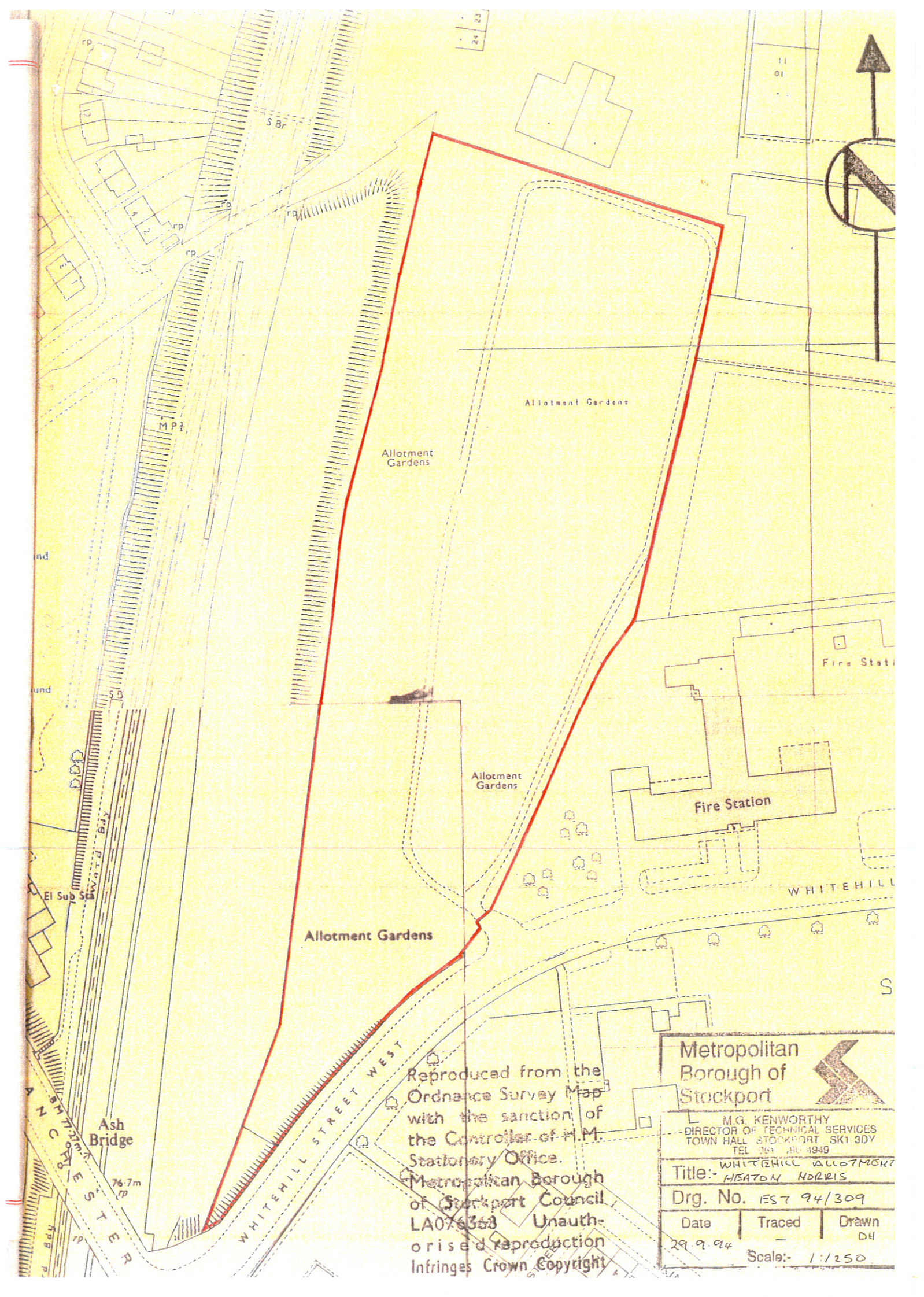
D U P L I C A T E
A G R E E M E N T

- relating to -

An Allotment Site
situate at
Whitehill Street West
Heaton Norris
Stockport

Head of Legal Services
Town Hall
STOCKPORT

REF: LC/CM/924C



Reproduced from the
 Ordnance Survey Map
 with the sanction of
 the Controller of H.M.
 Stationery Office.
 Metropolitan Borough
 of Stockport Council
 LA076353 Unauth-
 orised reproduction
 infringes Crown Copyright

Metropolitan Borough of Stockport		
M.G. KENWORTHY DIRECTOR OF TECHNICAL SERVICES TOWN HALL STOCKPORT SK1 3DY TEL 061 480 4949		
Title:- WHITEHILL ALLOTMENTS HEATON NORRIS		
Drg. No. EST 94/309		
Date 29.9.94	Traced -	Drawn DH
Scale:- 1:1250		

A N A G R E E M E N T made the

Nineteenth day of *December* One thousand Nine hundred and Ninety Five B E T W E E N THE METROPOLITAN BOROUGH COUNCIL OF STOCKPORT ("the Council") under the hand of Paul W. Stonehouse its Head of Legal Services and duly authorised agent of the one part and FREDERICK VICKERS of 72 Hanover Towers Lancashire Hill Stockport and HAROLD FRANK HINCHCLIFFE of 190 Broadstone Road Heaton Chapel Stockport SK4 5HW ("the Tenant") being the present Trustees of the Whitehill Allotment Society ("the Association") duly authorised by the Association to enter into this Agreement of the other part _____

W H E R E B Y :-

1. The Council agrees to let and the Tenant agrees to take on a yearly tenancy from the First day of January One thousand Nine hundred and Ninety Five and as one undivided whole ALL THAT plot of land containing Five decimal point Five (5.5) acres or thereabouts and more particularly delineated and edged red on the plan annexed hereto situate at Whitehill Street West Heaton Norris Stockport ("the Allotments") at the yearly rent ("the Payable Rent") calculated in accordance with the method and on the basis set out in the First Schedule which rent is payable yearly on the Thirtieth day of April in each year (being partly in arrear and partly in advance for each calendar year) and at a proportionate rent for any part of a year over which this Agreement may extend PROVIDED THAT the

tenancy hereby created shall continue until determined in accordance with Clause 9 of this Agreement _____

2. The Tenant agrees with the Council as follows :-

2.1 To pay to the Council the yearly rent on the days and in the manner aforesaid TOGETHER with any charges levied in respect of a shed and/or greenhouses owned by the Council situate on the Allotments (if any) the amount of which to be determined from time to time by the Council _____

2.2 The Allotments shall be used for allotment gardens within the meaning of Section 22(1) of the Allotment Act 1922 and for no other purpose _____

2.3 The Tenant shall be responsible for the day to day running of the Allotments and shall :-

2.3.1 let individual plots to members of the Association by means of the form of sub-tenancy set out in the Second Schedule hereto PROVIDED THAT the Tenant may add such terms and conditions as it thinks fit PROVIDED ALSO THAT such additional terms and conditions shall not conflict with the terms of this Agreement and

2.3.2 keep an up-to-date register of the names and addresses of individual Plotholders such register shall contain a record of the rent payments made by each Plotholder and

2.3.3 maintain annual audited accounts and

upon request to produce a copy of such accounts _____

2.3.4 maintain a list of potential Plotolders and allocate any vacant plots on a fair and reasonable basis and

2.3.5 upon request make such register and waiting list available for inspection by any authorised officer of the Council and

2.3.6 have the authority and responsibility for the giving of notice to Plotolders for non-cultivation and/or non-payment of rent and/or non-observance of the conditions contained in their respective Sub-Tenancy Agreements and

2.3.7 be responsible for the collection of individual rents from each Plotholder and

2.3.8 inform the Council immediately of any change of Trustees of the Association and supply full names and addresses of such new Trustees and

2.3.9 ensure that the terms and conditions of the said sub-tenancies granted to each member of the Association are fully complied with and

2.3.10 ensure that an Allotment site key together with keys (if any) to

buildings belonging to the Council which are situate within the Allotments are lodged with an authorised officer of the Council _____

2.4 To carry out maintenance and repair work of a minor nature to perimeter fencing sheds plumbing or any other fixtures and fittings on the Allotments _____

2.5 The Allotments shall be kept free from weeds and well manured and otherwise maintained in a proper state of cultivation and fertility and in good condition and any pathway or cart-track included therein shall be kept reasonably free from weeds and in good condition _____

2.6 No nuisance or annoyance shall be caused or permitted to the occupier of any other land belonging to the Council or any owner or occupier of any other adjoining land and no obstruction or encroachment shall be caused or permitted on any path or roadway set out by the Council for the use of the occupiers of the Allotments _____

2.7 No timber or other trees upon the Allotments shall be cut or pruned and no mineral gravel sand earth or clay shall be taken or carried away from the Allotments without the consent of the Council _____

2.8 Subject to Clause 2.3 the Tenant shall not assign underlet or part with possession of the Allotments or any part thereof _____

2.9 Any permitted buildings or poultry house or any

wire netting proposed to be erected on the Allotments shall not contravene the standards laid down by the Council from time to time _____

2.10 To gain access to the Allotments by the recognised entrances only _____

2.11 Not at any time (including overnight) to permit any vehicles to be left upon the Allotments whilst the owner of such vehicle is away from the Allotments _____

2.12 Not to use any barbed wire for any fence adjoining any highway footpath or any path set out by the Council for the use of occupiers of other plots _____

2.13 Not without prior written consent of the Council to plant any trees or shrubs upon the Allotments _____

2.14 Not to plant any :-

2.14.1 fruit trees or bushes (other than soft fruits) within ten feet or

2.14.2 soft fruit bushes or rhubarb crowns within three feet _____

of any pathway or boundary included within any Plot or abutting thereon _____

2.15 Not without the prior written consent of the Council and where necessary the permission of the Local Planning Authority to erect any building on the Allotments such consent if given will be subject to the condition that any such building will not be erected within six feet from any main pathway and not within three feet from any

pathway dividing each individual plot within the Allotments _____

2.16 Not to deposit or allow other persons to deposit on the Allotments any refuse or decaying matter (except manure and compost in such quantities as may reasonably be required for use in cultivation) or place any matter in any adjoining land _____

2.17 Not without the prior written consent of the Council to keep any animals bees or livestock of any kind upon the Plot _____

2.18 Not to bring on to the Allotments any contrivance or apparatus of unsightly appearance and shall immediately remove therefrom anything which in the opinion of the Association or the Council is or will become a nuisance or annoyance to the Council or occupiers of adjoining land _____

2.19 To use only lime or dry soil in any permitted poultry house and only such part of any Plot for the keeping of poultry as the Council may direct _____

2.20 Not at any time to light any bonfires on the Allotments _____

2.21 To remove all uncompostable waste from the Allotments _____

2.22 The Tenant shall yield up the Allotments at the determination of the tenancy created by this Agreement in such condition as shall be in compliance with the agreements contained in this Agreement and hand over the Register of

Plotolders and the waiting list to the Council _____

3. The Council agrees with the Tenant that it will be responsible for the following:-

3.1 The provision of water supplies together with any stop-taps _____

3.2 The payment of all taxes rates and water rates payable in respect of the Allotments _____

3.3 The emptying of any recognised site tip PROVIDED that it has been used solely for the depositing of non-compostable waste _____

3.4 Any mature trees growing on the Allotments particularly those trees subject to Tree Preservation Orders _____

3.5 All services running underneath the ground of the Allotments - - _____

4. Any authorised officer or agent of the Council shall be entitled at any time to enter and inspect the Allotments _____

5. Any dispute between the Association and any individual Plotholder of the Allotments which cannot be resolved by the Association may be referred to the Director of Leisure Services from time to time of the Council or such other authorised officer of the Council whose decision shall be final _____

6. If the Council upgrades or downgrades the Status of the Allotments the rent will be increased or decreased as the case may be PROVIDED THAT such increase or decrease shall not take effect until the Review Date following such change in Status and for

the purpose of operating the Rent Review the rate for the new Status shall be used to calculate the new rent

7. Any increase or decrease in rent made payable in accordance with Clause 1 or Clause 5 above shall be accompanied by a corresponding increase or decrease in the rents payable by the individual Plotholders

8. Any vehicles brought upon the Allotments shall be the responsibility and at the risk of the owner of the vehicle

9. The tenancy is subject to any covenants conditions and stipulations contained in the title of the Council to the Allotments so far as they relate to or affect the land PROVIDED THAT the Tenant will not be liable for any breach of the same unless prior to such breach the Tenant has been given express notice of their existence and the Council shall not be liable to make any compensation for any damage whatsoever in consequence of the working and getting of the mines and minerals under the Allotments

10. This Agreement may be determined :-

10.1 By either the Council or the Tenant giving to the other thirteen months notice in writing expiring on or before the Sixth day of April or on or after the Twenty Ninth day of September in each year

10.2 By re-entry by the Council at any time after giving four months previous notice in writing to the Tenant on account of the land being required:-

10.2.1 for any purpose (not being the use of the same for agriculture) for which it was acquired by the Council or has been appropriated under any statutory provision or

10.2.2 for building mining or any other industrial purpose or for roads or sewers necessary in connection with any of these purposes _____

10.3 By re-entry by the Council at any time after giving one month's previous notice in writing if it appears to the Council that the Tenant or any one of its Plotholders not less than three months after the commencement of the Agreement have not duly observed the conditions contained therein (EXCEPT THAT this sub-clause shall not apply to minor breaches of the said conditions) _____

10.4 By re-entry by the Council at any time without notice if the rent or any part thereof is in arrear for not less than forty days whether legally demanded or not _____

11. Save as provided by the Allotments Acts 1922 and 1950 the Tenant shall not claim or be entitled to any compensation on the determination of this Agreement either by notice or re-entry _____

12. Any notice required to be given by the Council to the Tenant may be given by sending by prepaid letter post a written notice signed by the Head of Legal Services from time to time of the Council and

addressed to each of the Tenants named in this Agreement or by affixing the same in some conspicuous manner on any Plot within the Allotments and any notice to be given by the Tenant to the Council shall be sufficiently served if signed by any two of them and sent by prepaid letter post to the Head of Legal Services from time to time of the Council _____

A S W I T N E S S the hands of the parties hereto the day and year first before written _____

THE FIRST SCHEDULE

Particulars of rents payable under this Agreement

PART I

1. Allotment Details:-

1.1 Name and Location: Whitehill Allotment Site _____

1.2 Status: B _____

1.3 Number of Plots: 64 _____

1.4 Total Plot Area: 18,300 square yards _____

1.5 Initial Rate:-

1.5.1 Cultivated Plots: 6.8 pence per square yard _____

1.5.2 Poultry Plots: 9.7 pence per square yard _____

2. The Gross Rent shall be the amount for the relevant year equal to the sum arrived at by multiplying the number of square yards in the Total Plot Area by the Rate applicable to the Status for the year in question _____

3. The Payable Rent for each year that the tenancy shall continue shall (subject to being otherwise determined or varied in accordance with this Agreement) be the Gross Rent less :-

3.1 an allowance of fifty per cent for each Plotholder who holds a current Council Leisure Key and then _____

3.2 further reduced by an allowance of twenty five per cent _____

4. The Gross Rent payable for the period commencing on the First day of January One thousand Nine hundred and Ninety Five until the Thirty First day of December One thousand Nine hundred and Ninety Seven (inclusive)

shall be calculated at the Initial Rate _____

5. The Gross Rate payable for each subsequent year that this Agreement continues thereafter shall be at the rate calculated in accordance with Part II of this Schedule _____

PART II

Basis for re-assessment of rent

1. In this Agreement :-

1.1 "Review Date" means the First day of January One thousand Nine hundred and Ninety Eight and thereafter annually on the First day of January in each year _____

1.2 "Review Period" means the period between any Review Date and the day prior to the next Review Date (inclusive) _____

1.3 The "Base Figure" shall mean One hundred and fixed in January One thousand Nine hundred and Eighty Seven and the "Index" shall mean the Index of Retail Prices (the "RPI") published by the Department of Employment or any successor Department _____

2. Whilst the Base Figure remains at its current level (as fixed in January One thousand Nine hundred and Eighty Seven) the Gross Rent shall with effect from each Review Date be adjusted to whichever is the higher of :-

2.1 The Gross Rent payable immediately prior to such Review Date or

2.2 The Gross Rent payable at the Review Date plus

the percentage rise (if any) thereof above the RPI figure when the RPI is published in the month of October prior to the relevant Review Date is compared with the RPI figure for one year earlier (to give an example for illustration purposes and for the avoidance of doubt this means that if at the relevant Review Date the RPI published in the previous October was One hundred and Forty Nine (149) and if the RPI for one year earlier was One hundred and Forty Six (146) then the Gross Rent will be increased by Two decimal point Nought Five Four Seven Nine percent (2.05479%) of its existing level being the percentage increase equivalent to the rise in the RPI figures)

2.3 If the Base Figure shall after today's date change then at the relevant Review Date the Gross Rent shall with effect from that date and every Review Date thereafter from the date of this Agreement be adjusted to whichever is the higher of:-

2.3.1 The Gross Rent payable at the relevant Review Date or

2.3.2 The Gross Rent increased by the same proportion as the RPI figure last published before the relevant Review Date has increased over One hundred (100)

2.4 If it becomes impossible by reason of any change after today's date in the methods used to compile the RPI or for any other reason whatever it becomes impossible to calculate the increased Gross Rent by

reference to the RPI or if any dispute or question whatever shall arise between the parties with respect to the amount of the increased Gross Rent or the construction or effect of this Clause the determination of the increased Gross Rent or other matter in difference shall be determined by an arbitrator to be appointed either by agreement between the parties or in the absence of agreement by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors on the application of either party this being deemed to be a submission to arbitration within the meaning of the Arbitration Acts 1950 - 1979 who shall have full power to determine on such dates as he shall deem appropriate what would have been the increase in the Index had it contained on the basis and in view of the information assumed to be available for the operation of this rent review or (if that determination shall also be impossible) shall determine a reasonable increased Gross Rent on such Review Dates having regard to the purposes and intent of the provisions of this Agreement for review of the Gross Rent. The costs of the arbitration shall be borne by the Tenant and the Council in equal shares _____

2.5 The Council shall not later than one month prior to each Review Date give written notice to the Tenant of the rate applicable to the Status of the Allotments _____

THE SECOND SCHEDULE

Form of Sub-Tenancy

Allotment Details:-

Name of Association:
.

Location:-

Plot Number: Containing sq yds

Status:

Initial Rate:-

1. Cultivated Plots: per square yard
2. Poultry Plots: per square yard

Full Name and Address of Plotholder (Block Capitals)

.
.
.
.

1. I being the above named and undersigned hereby agree to take as Plotholder on a yearly tenancy from the First day of January One thousand Nine hundred and Ninety the allotment garden plot ("the Plot") referred to above provided and hereby let by the above Association acting by its appointed Trustees for the purpose under the terms and conditions of the Allotment Tenancy Agreement of the Allotments ("the Agreement") held from the Metropolitan Borough Council of Stockport ("the Council") at the yearly rent calculated in accordance with the method contained in Schedule A set out below (or as otherwise determined or varied in accordance with and subject to the

prescribed terms and conditions hereinafter referred to) such rent to be paid not later than the Twenty Eighth day of February in each year (being partly in arrear and partly in advance for each calendar year) to the appointed Treasurer of the Association whether the same has been legally demanded or not.

2. I further agree that the letting will be subject to the terms and conditions contained in Schedule A set out below.

3. Upon determination of the tenancy in accordance with the said prescribed terms and conditions of tenancy the rent payable for any part of the year shall be calculated proportionately by reference to the rent payable for the whole of that year.

4. In connection with any allowance on rent to which I may be entitled I hereby declare at the date hereof I am the holder of a valid Leisure Key (to be produced on demand).

PART A

Rent

1. The yearly rent payable for each calendar year that the tenancy shall continue thereafter shall (subject to any change or allowance made as referred to above) be the amount for each such year equal to the sum arrived at by multiplying the number of square yards which the said plot contains by the rate in number of pence per square yard applicable to the Status of the Allotments for the year in question such rate as determined in accordance with the method and

on the basis set out in the Agreement _____

2. When the amount of rent payable for the year in question has been calculated by the method and on the basis set out above (subject to any such change or allowance aforesaid) by the Association Treasurer particulars thereof shall be recorded by way of endorsement in the place provided within this Agreement and certified by him that the amount so recorded is the yearly rent payable under the tenancy for that year _____

PART B

The terms and conditions of the tenancy

1. The tenancy shall commence on the First day of January One thousand Nine hundred and _____ and shall continue from year to year PROVIDED THAT the tenancy created shall continue until determined in accordance with paragraph 8 of this Schedule _____

2. The Plotholder shall pay for each Plot which he has agreed to take on a yearly tenancy on the First day of January in each year :-

2.1 The rent and

2.2 Any charges levied in respect of a shed and/or greenhouse owned by the Council situate on the Plot (if any) the amount of which to be determined by the Council _____

3. The Plotholder agrees with the Association as follows :-

3.1 The Plot shall be used for an allotment garden within the meaning of Section 22(1) of the

Allotment Act 1922 and for no other purpose

3.2 To keep the Plot free from weeds and well manured and otherwise maintained in a proper state of cultivation and fertility and in good condition and any pathway or cart-track included therein shall be kept reasonably free from weeds and in good condition

3.3 No nuisance or annoyance shall be caused or permitted to the occupier of any other land belonging to the Council or any other owner or occupier of any other adjoining land and no obstruction or encroachment shall be caused or permitted on any path or roadway set out by the Council for the use of the occupiers of the Allotments

3.4 No timber or other trees upon the Plot shall be cut or pruned and no mineral gravel sand earth or clay shall be taken or carried away therefrom without the consent of the Council

3.5 Not to underlet assign or part with possession of the Plot

3.6 Any permitted building poultry houses wire netting or fencing proposed to be erected by the Plotholder in or around the Plot shall be subject to the approval of the Association and shall not in any event contravene standards laid down by the Council from time to time

3.7 To gain access to the Allotments by the recognised entrances only

3.8 Any vehicle brought upon the Allotments shall be the responsibility of and at the risk of the Plotholder at all times and must not be left when the Plotholder is away from the Allotments (including overnight) _____

3.9 Not to use any barbed wire for any fence adjoining any highway footpath or any path set out by the Council for the use of occupiers of other Plots _____

3.10 Not without the prior written consent of the Association or the Council to plant any trees or shrubs upon the Plot _____

3.11 Not to plant any :

3.11.1 fruit trees or bushes (other than soft fruits) within ten feet or

3.11.2 soft fruit bushes or rhubarb crowns within three feet _____

of any pathway or boundary included within the Plot or abutting thereon _____

3.12 Not without the prior written consent of the Association or Council and where necessary the permission of the Local Planning Authority to erect any building on the Plot such consent if given will be subject to the condition that any such building will not be erected within six feet from any main pathway and not within three feet from any pathway dividing each individual plot within the Allotments _____

3.13 Not to deposit or allow other persons to deposit

on the Allotments any refuse or decaying matter (except manure and compost in such quantities as may reasonably be required for use in cultivation) or place any matter in any adjoining land _____

3.14 Not without the prior written consent of the Council to keep any animals bees or livestock of any kind upon the Plot _____

3.15 Not to bring on to the Allotments any contrivance or apparatus of unsightly appearance and shall immediately remove therefrom anything which in the opinion of the Association or the Council is or will become a nuisance or annoyance to the Council or occupiers of adjoining land _____

3.16 To use only lime or dry soil in any permitted poultry house and only such part of the Plot for the keeping of poultry as the Council may direct _____

3.17 Not at any time to light any bonfires on the Plot or any part of the Allotment Site _____

3.18 To be responsible for the removal of all uncompostable waste from the Plot and the Allotments _____

3.19 The Plotholder shall yield up the plot at the determination of the tenancy created by this Agreement in such condition as shall be in compliance with the agreements contained in this Agreement _____

4. Any authorised officer or agent of the Council shall be entitled at any time to enter and inspect the

Plot _____

5. Any dispute between the Association and any individual Plotholder which cannot be resolved by the Association may be referred to the Director of Leisure Services from time to time of the Council or such other authorised officer of the Council whose decision shall be final _____

6. If the Council upgrades or downgrades the Status of the Allotments the rent will be increased or decreased as the case may be PROVIDED THAT such increase or decrease shall not take effect until the Review Date following such change in Status _____

7. The tenancy is subject to any covenants conditions and stipulations contained in the Agreement (and any superior titles) so far as they relate to or affect the land PROVIDED THAT the Plotholder will not be liable for any breach of the same unless prior to such breach the Plotholder has been given express notice of their existence and the Council shall not be liable to make any compensation for any damage whatsoever in consequence of the working and getting of the mines and minerals under the Allotments _____

8. This Agreement may be determined :-

8.1 By either party giving to the other twelve months notice in writing expiring on or before the Sixth day of April or on or after the Twenty Ninth day of September in each year _____

8.2 By re-entry by the Association acting by its Trustees or any person authorised by its Trustees

or on its behalf by the Council as Head Landlord at any time after giving three months previous notice in writing to the Plotholder on account of the Plot being required :-

8.2.1 for any purpose (not being the use of the same for agriculture) for which it was acquired by the Council or has been appropriated under any statutory provision or

8.2.2 for building mining or any other industrial purpose or for roads or sewers necessary in connection with any of these purposes _____

8.3 By re-entry by the Association acting by its Trustees or any person authorised by its Trustees at any time without notice :-

8.3.1 if the rent or any part thereof is in arrear for not less than forty days whether legally demanded or not or

8.3.2 if it appears to the Trustees or any person authorised by the Trustees that the Plotholder not less than three months after the commencement of the Agreement has not duly observed the conditions contained herein _____

8.4 In any event by and upon the determination of the Agreement _____

9. Save as provided by the Allotments Acts 1922 and 1950 the Plotholder shall not claim or be entitled to

any compensation on the determination of this
Agreement either by notice or re-entry

DATE:

SIGNATURE OF PLOTHOLDER:

WITNESS:

ADDRESS OF WITNESS:

.
.
.

SIGNATURES of any two
current Trustees of
the Association

SIGNED:

NAME OF TRUSTEE:

WITNESSED BY:

NAME AND ADDRESS
OF WITNESS:

.
.

SIGNED:

NAME OF TRUSTEE:

WITNESSED BY:

NAME AND ADDRESS
OF WITNESS:

.
.

N.B. This form is to be completed and signed held by
the Plotholder and the Declaration to be retained by
the Secretary on behalf of the Association and its
Trustees _____

PLOTHOLDER'S COPY

RECORD OF RENT ADJUSTMENTS

YEAR	STATUS	RENT PER SQ. YARD	SIGNED	DATED

SIGNED by the said PAUL W. STONEHOUSE in the presence of :-

) Paul Stonehouse
)

L. Carrington
Town Hall
Steelport

SIGNED by the said FREDERICK VICKERS in the presence of :-

) F. Vickers
)

MR G.T. LITTLE

SIGNED by the said HAROLD FRANK HINCHCLIFFE in the presence of :-

) H.F. Hinchcliffe
)

MR. G.T. LITTLE