

STADHAMPTON PARISH COUNCIL

Clerk & RFO : Michael Pawley – Nelhurst Cottage, Copson Lane,
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18th May 2020

Dear Mr Davis ,

Thank you for your letter received on 17 April 2020, requesting an Internal Review of your Freedom of Information Request made on 11 March 2020 and our response sent on 7 April 2020.

On behalf of the Parish Council I have conducted the Internal Review and for ease of reference, I will respond to each question in turn in the order you have raised them (in bold) together with our response (in italics) and my findings.

For clarity, you have made requests for information in your numbered paragraphs but there are also various paragraphs of comment. These paragraphs do not request any information within the meaning of either the Freedom of information Act 2001 ("FOIA"), or the Environmental Information Regulations 2004 ("EIR"), and therefore I am satisfied that we have not responded to these comments as they do not appear to be specific requests for information. Your reference to various minutes of Parish Council meetings are all public documents and are published on our website. The minutes are approved and are undisputed.

Having reviewed the requests for information numbered 1 to 5 which relate broadly to allotment land, I am satisfied with our approach that we dealt with these requests under the EIR and that where information has been withheld it falls under the following exceptions in the EIR:

Regulation 12(4)(a), the authority does not hold the information that has been requested; and Regulation 12(5)(b), it would adversely affect formal legal proceedings.

I am also satisfied as part of the Internal Review, *"that in applying these exceptions we have had to balance the public interest in withholding the information against the public interest in disclosure. The factors we considered in deciding where the public interest lay are the interest in the Council obtaining confidential legal advice and the public interest in not undermining the legal procedures that govern access to court records and information under the Civil Procedure Rules."*

- 1. Can SPC clarify why it has referred to owning A13 yet has recorded consideration that others might instead be the owners?**

"You have requested clarification of comments made in the minutes of Parish Council meetings. We confirm that the minutes of Parish Council meetings stand as a public record of the business that took place in those meetings. The Council does not keep a record of clarifications of Parish Council minutes or notes of the meetings."

So far as this request may relate to any other information held by the Council then we are unable to answer it as the request is too general (regulation 12(4)(c)) as we are unable to identify any other information that has been

asked for. If you wish to rephrase or clarify your request please do so and if you require any assistance with this please get in contact with me."

I have reviewed your request and our response and take the view that your request is of too general a nature for me to be able to provide a response. This is because I am not clearly able to identify the particular information that you have requested without further clarification and as such I refuse the request in accordance with Regulation 12(4)(c). The minutes of Parish Council meetings stand as a public record of the business that took place at those meetings and the Council does not keep records of clarifications or notes of the meetings. If you would like to rephrase or clarify your request please contact me and for any assistance in doing that . Please note that our offer of advice and assistance is made in accordance with the Regulation 9.

2. If not owners, why has SPC used that term and not clarified their position more accurately?

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3. If the owners, why did SPC choose to not pursue action as such, but instead opt for a lesser basis?

I have reviewed your request and our response and reject your request for information on the basis that it is subject to legal professional privilege and involves documents relating to court proceedings, which is covered by the exemption set out in section 42 the FOIA - Legal Professional Privilege.

4. Can SPC confirm how many designated allotments were vacant in May 2019?

"Yes, including allotment 13 there were 7 vacant in May 2019, one of which was let in June 2019."

This request for information has been provided so I make no further comment as part of the Internal Review.

5. Can SPC explain why it has not maintained vacant allotments sufficient to allow use of these by Parishioners on a waiting list?

I have reviewed your request and our response and would advise that we are unable to provide the information you request as we do not hold such records. The minutes of Parish Council meetings stand as a public record of the business that took place at those meetings and the Council does not keep records of clarifications or notes of the meetings. If you would like to rephrase or clarify your request please contact me and for any assistance in doing that. Please note that our offer of advice and assistance is made in accordance with the Regulation 9.

Having reviewed your requests for information in points 6 to 10 I am satisfied that they have been correctly dealt with under the Freedom of Information Act 2000. As stated previously *"The points raised are largely queries in relation to the accuracy of the Parish Council's accounts and budgets rather than requests for information. In respect of the accounts we apply the exemption in section 21 of the Act in that the information that you have requested is already reasonably accessible as it is published on the Council's website. The Parish Council confirms that it publishes this information in accordance with the Transparency code of Practice and the accounts are audited by the Parish Council's auditors. The Council also confirms that the budgets that the Council prepares are prepared with the best information that the Council has at the time that the budget is set."*

However, as part of the Internal Review I have reviewed each request and our response.

6. Can SPC confirm the total expenditure on 'Legal & Professional' and Land Registration costs in relation to the 'land on Copson Lane' referred to as Allotment 13, from 01 January 2017 to date?

"There was no expenditure for the period from January 2017 until 1 April 2017. The remainder of the information requested appears on our website in the published accounts and records of payments and receipts referred to above."

The financial information you request is already publicly accessible to you but for clarity I confirm that the total expenditure to date in the 3 years 2017-2020 that the Parish Council has spent on legal and professional fees directly in relation to the land at Copson Lane, known as Allotment 13, as shown in the public records is £10,470.70.

7. The published FY19/20 schedule of payments does not record the costs for legal services Oct 19 – Jan 2020. Can SPC explain why this in year cost has been omitted?

The financial information you request is already publicly accessible to you but for clarity I confirm that there were no invoices received for legal costs during this period which is why they did not appear on the schedule of payments.

8. **Can SPC evidence 3 quotes or estimates for costs relating to its FY 19/20 'Legal & professional' expenditure to comply with either section 10.3 or sections 11.1.d of its Financial Regulations?**

"In respect of your requests numbered 8 and 9 the Council does not hold the information requested. We do however refer you to the Parish Council's Standing Orders and Financial Regulations on the Council's website which set out the Council's procurement processes."

It may be helpful to clarify that Section 11.1 ii of the Parish Council's Financial Regulations specifically excludes "contracts... for specialist services such as are provided by solicitors" from the requirements to obtain 3 quotes or estimates. As advised previously the Parish Council's Standing Orders and Financial Regulations are available to view on the Council's website and set out the Council's procurement processes.

9. **If unable to, can SPC confirm and provide public record, prior to the date of first engagement of such 'Legal & professional' services that accords with Section 16.2 of its Financial Regulations?**

I would refer to my response given in point 8 which answers this request also.

10. **Can SPC confirm the Budget forecast for 'Legal & professional' expenses in FY20/21 as £5,000 is correct?**

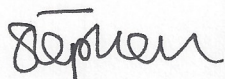
I can confirm that the Budget forecast is correct.

In response to your requests for information in points 11 to 14, I confirm that when the Parish Council set its budget for the financial year 1 April 2020 to 31 March 2021, this was based on the best information available to the Council at the time, given that both parties were seeking to resolve the ongoing legal dispute by mediation, and that at all times the Parish Council has adhered to its Standing Orders and Financial Regulations.

In reviewing your request for information I am satisfied that the Parish Council has correctly applied the exemption set out in section 42 the FOIA - Legal Professional Privilege to some of the information that you have requested and in applying that exemption we have had to balance the public interest in withholding the information against the public interest in disclosure. The factors we considered in deciding where the public interest lay are a general assumption in favour of disclosure, and the interest in protecting communications between lawyer and client, confidence of communications in relation to contemplated litigation.

I hope you are satisfied with the Internal Review I have undertaken on behalf of the Parish Council but if you remain dissatisfied with the handling of your request, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



Stephen Dawson
Chairman