

MINUTES OF THE MEETING OF THE WORLDHAM PARISH COUNCIL
8.00 pm Wednesday 9th December 2015
EAST WORLDHAM VILLAGE HALL

Present: Cllrs Terry Blake (Chairman), Andrew Aldridge, Tessa Gaffney, Tara Goodwyn, Mary Trigwell-Jones, Robin Twining (Clerk), 8 Members of the public.

At the start of the meeting, Cllr Blake stated that the meeting will be opened to the members of the public to speak for 15 minutes with a maximum of 3 minutes per person.

78/15 To receive and accept apologies for absence.

Apologies were received from Dist Cllr David Ashcroft.

79/15 Minutes from previous meeting

a) Minutes of the Worldham Parish Council meeting held on 4th November were approved and duly signed by the chairman.

Proposed by Cllr Gaffney and seconded by Cllr Aldridge AIF

b) Minutes of the Worldham Parish Council Special Meeting held on 21st October were approved and duly signed by the chairman.

Proposed by Cllr Goodwyn and seconded by Cllr Trigwell-Jones AIF

80/15 Declaration of Interest

None were declared

81/15 The floor will be opened to the public to raise any matters of concern or interest

Cllr Blake invited comments from the members of the public.

A member of the public asked whether the agendas could be published on the Worldham website. Cllr Goodwyn replied that they normally are, but currently there was a problem in uploading files to the website.

Cllr Blake stated that the Parish Council had received advice regarding the Hartley Mauditt Hall and that Councillors have not yet discussed the legal advice, but will be doing so during the meeting. Copies of the full legal reply will be attached to the minutes of this meeting and are available to the public. Cllr Blake provided a brief summary of the legal advice received.

- *Does the letter of Consent sent by Cllr Brock providing consent to the removal of the restricted conveyance have any legal validity and can it be withdrawn?*
The letter of consent was not legally valid and was apparently rejected by the Land Registry.
- *In the circumstances what is the likely legal ownership of the current building?*
As the law stands before 1964 the right to maintain a village hall had to be specified in terms of a nominated lifetime within the perpetuity period. As this was not done it appears the right has no validity. It is likely that the PCC would be regarded as the legal owner. Failing that the landowner.
- *Does the Parish Council have any right or obligation to demolish a building deemed to be unsafe and not financially viable to be put into a safe condition taking into account the uncertainty over its ownership?*
As the Parish Council does not have any legal interest in the building it follows that it has no rights or obligations to demolish the building.
- *Does the Parish Council have the right to waive its rights under its charge to maintain the village hall on the site?*
As previously indicated it is unlikely that the Parish Council has any right. The lawyer confirmed our interpretation of 'maintain' as meaning to keep on the land – not an obligation to carry out repairs.

- *If there is no village hall on the land, does the Parish Council have any rights to use the land for any other purposes?*
As the Parish Council has no rights in respect of the village hall it follows that it would have no rights in respect of use of the land.

At the end of the legal advice there is a clause about taking the Parish Council out of the fray as far as the future of this building is concerned. This will be discussed later.

No questions or comments were raised by the members of the public. Cllr Blake closed the meeting for public comments.

82/15 Review of actions from last meeting

November 01-15 Clerk to write a letter of complaint regarding the way the EHDC Planning Committee had been conducted.

The Clerk confirmed he had sent a letter of complaint but had not yet received a response.

November 02-15 Clerk to write a letter of objection to HCC Countryside Services.

The Clerk confirmed he had sent a letter of objection which has been placed on file. Councillors noted that the Map Review Officers have a considerable backlog of applications to have the Definitive Map modified. The Map Review Officers are currently investigating applications which were submitted in 2007.

83/15 Councillor Vacancy – Clerk to update Councillors on the procedures required to fill the vacancy.

The Clerk confirmed that the closing date for receiving any request for an election was the 7th December. He has confirmed with EHDC Democratic Services that there has been no request for an election, which means that Councillors can go down the route of co-option. Councillors should send names of possible candidates for co-option to the Chairman and the Clerk. The decision on who to co-opt will be agreed at the next Parish Council meeting.

84/15 Planning

a) Applications received, decisions and actions made since last meeting

WPC ref number: wpc 2015/10 SNDP Ref number: SDNP/15/03808/FUL
Site address: Unit 1 Ashburton Business Park, Shelleys Lane East Worldham Alton GU34 3AQ
Proposal: Two storey steel framed industrial unit following demolition of agricultural barn

Councillors noted: Decision is pending.

WPC ref number: wpc 2015/12 SNDP Ref number: SDNP/15/02269/LDE
Site address: Oaklands Farm Green Street East Worldham Bordon GU34 3AU
Proposal: Crushing, grading and recycling of concrete and inert wastes with associated plant and machinery

Councillors noted: The application for lawful use of development was refused. Cllr Blake reported that he had spoken to the Planning Officer at HCC, who said that the application was not specifically refused because the applicant had not been using the site for 10 years, but that HCC were not satisfied on the information provided by the applicant. As a result of the refusal, HCC is in the process of serving an enforcement notice on the applicant to cease using the site.

WPC ref number: wpc 2015/13 SNDP Ref number: SDNP/15/03972/LIS
Site address: Pullens Hartley Lane West Worldham Alton Hampshire GU34 3BH
Proposal: Listed Building Consent - Internal alterations/re-ordering of the first floor bathroom

Councillors noted: The planning application has been approved.

WPC ref number: wpc 2015/17 and 2015/18
SNDP Ref number: SDNP/15/04546/HOUS and SDNP/15/04547/LIS

Site address: Pullens Hartley Lane West Worldham Alton GU34 3BH
Proposal: Single storey side extension and creation of new doorway through existing window and Listed building consent for a single storey side extension and creation of new doorway through existing window

Councillors noted: The planning application has been approved.

WPC ref number: wpc 2015/19
SNDP Ref number: SDNP/15/04756/HOUS
Site address: Pookles Lane Cottage Worldham Hill East Worldham GU34 3AT
Proposal: Two storey rear extension and timber decked terrace over new double garage to rear following removal of front conservatory and garage

Councillors noted: The planning application has been approved..

WPC ref number: wpc 2015/20
SNDP Ref number: 54507/006
Site address: Land South of, Gaston Lane, Farrington, Alton
Proposal: Variation of condition 2 of permission 54507/002 to change the expiry date to 31 March 2045 to allow for 30 years of operation

Councillors noted: Permission had been granted

- b) To consider and decide on the Parish Council's response to planning applications received since the last Parish Council meeting

WPC ref number: wpc 2015/21
SNDP Ref number: SDNP/15/05828/HOUS
Site address: 1- 2 School Hill Cottage Worldham Hill East Worldham Alton Hampshire GU34 3AT
Proposal: Driveway and parking area

Councillors resolved: No objections but the Parish Council has concerns over the practicalities of the turning of cars on the site.

85/15 To review the position regarding the village hall at West Worldham/Hartley Mauditt.

Councillors noted the full legal advice given by the solicitors. (Copy attached at the end of the minutes). The legal advice is quite explicit. It appears that the Parish Council has no rights or obligations on the hall and the ownership might rest with the West Worldham and Hartley Mauditt Parochial Church Council. The legal advice recommends that the Parish Council should take action to submit a disclaimer to the Land Registrar. This would be done through the solicitor.

Cllr Gaffney proposed and seconded by Cllr Trigwell-the resolution subject to obtaining a reasonable quote for carrying out the work the Solicitor should be instructed to submit a disclaimer to the Land Registrar. AIF and duly RESOLVED.

Councillors agreed to share the legal advice with the PCC and to formally forward the legal advice onto the PCC.

86/15 To agree on the cost and provision of fencing at the playground

The Clerk reported that he had obtained 2 quotes for the fencing of the playground, which would consist of 2 five bar bar gates, one 2100 mm and 1200 mm long. Thomas Brock had volunteered that his farm workers could install the gates.

Quotes received from Martin Cashmore for materials £328.50
Quote from AVS Fencing Supplies for materials £395.22
Both were inclusive of VAT and no labour.

Councillors noted that the purpose of the fencing is to slow down children exiting from the playground onto Church Lane. The Clerk confirmed that the East Worldham School Educational Charity had

approved a grant for £200 and he suggested that the Parish Council applies to District Councillor David Ashcroft, for a grant for the balance.

Cllr Aldridge proposed and seconded by Cllr Goodwyn the resolution to purchase the fencing from Martin Cashmore and to use the voluntary labour offered by Thomas Brock and to apply for a grant from the District Councillor David Ashcroft. AIF and duly RESOLVED.

87/15 To agree to accept the Community Benefit Offer proposed by Lightsource in relation to the solar farm at Wilsom Farm, and to sign the Community Benefit Deed

Councillors noted that in a previous Parish Council meeting they had voted to accept the Community Benefit Offer being proposed by Lightsource. Councillors noted that the total payment will be approximately £70,000 over a 20 year period with the annual payments being subject to any increase in the RPI (Retail Price Index). Councillors noted clause 6.1 of the deed, that the deed, together with all rights and liabilities shall terminate if on the first anniversary of the date of the deed, the solar farm is not connected and exporting electricity.

Cllr Trigwell-Jones proposed and seconded by Cllr Gaffney the resolution:
Cllr Blake and Cllr Trigwell-Jones are authorised to sign and execute the Deed between Worldham Parish Council and Lightsource SPV 68 Ltd and to sign the Bribery Act 2010 Compliance Form.

All in favour and duly RESOLVED.

It was agreed that Cllr Blake and Cllr Trigwell-Jones would sign the forms, outside the meeting.

88/15 To agree the monthly finance report and schedule of expenditure – Details contained in annex C.

Cllr Goodwyn proposed and seconded by Cllr Trigwell-Jones the resolution:

- To accept the monthly report and schedule of expenditure
- To remove Thomas Brock's name from the TSB accounts
- To include Andrew Aldridge onto the TSB bank mandates as a signing authority
- To transfer £1,500 from the deposit account to the current account.

All in favour and duly RESOLVED.

The current accounts balance as at 9th December 2015
 TSB current account: balance: £476.94
 TSB Business Instant account balance: £2,842.18
 HSBC current account balance: £11,763.08
 Total balance of all 3 accounts as at 09/12/15: £15,082.20

Total Payments

Date	Cheque No	Payee	Details	Total (£) inc VAT	VAT included in total (£)
18/11/15	1103	Kate Denyer	1 Contour folding table for EW village hall	85.64	14.27
18/11/15	1104	P J Grace	Grass cutting playground £608; EW village hall £210	981.60	163.60
9/12/15	1105	Robin Twining	Clerk salary Month 8 November	481.04	
9/12/15	1106	Wellers & Headleys	Legal advice re West Worldham / Hartley Mauditt village hall	681.00	112.00
			Total Payments for Authorisation	2,229.28	289.87

Total Receipts Received

Date paid in	Bacs/Paying In book	From	Details	Total (£) Receipts
3/12/15	500061	Becky Seymour	Children's Party	30.00
Total Receipts Received				30.00

Councillors noted that the Precept for 2015-16 will need to be agreed at the January Parish Council meeting. Councillors noted that the Clerk's initial view is that he will be proposing an increase in the precept.

89/15 To receive a report on East Worldham village hall

Cllr Gaffney reported that 12 volunteers joined forces at the working party held on 7th November. They arrived with buckets, steps, and all sorts of cleaning materials and set to work with great energy. In 3 hours the hall was thoroughly cleaned; the lights and lower walls washed, cobwebs removed, the cupboard cleared and cleaned and other smaller jobs accomplished. We were all pleased with the work and improved appearance of the hall. Our thanks to all concerned.

Councillors noted that the repairs to the roof leaks appear to be holding and the floor boards in the south west corner of the hall have been put back.

90/15 To receive and approve a report from the Clerk regarding:

a) Meetings attended

Code of Conduct Training; the meeting was attended by the Clerk who felt that it was not that useful or relevant as the workshop just ran through a number of scenarios.

Strategic Review of Health and Health-related care services for the population of Alton and the surrounding villages:

The meeting was attended by Cllr Blake and the Clerk. Alton Community Hospital is only operating at 30-35% capacity, which has been the trigger to review the state of Health Care in and around Alton. The presenters of the review stated that the review will be a genuine engagement of all stakeholders and the general public with a possible open event on January 12th from 6.30 to 8.30pm, possible at the Assembly Rooms.

As part of the review they are creating a list of all health related provision being provided within Alton and a list of the current Public Sector estate within Alton. A possible option is for outside users to contract and buy into the services being provided within Alton eg at the Community Hospital.

In the next 10 years the population of Alton is expected to increase by 25%. When asked by Alton Town Councillor the question "Is the Alton Community Hospital still under threat" the reply was yes.

b) Consultation documents: Modifications on the Council's Local Plan: Housing and Employment Allocations (Site Allocations Plan); Cllr Blake and the Clerk had looked through the consultation documents and found nothing specifically relevant to Worldham. It was agreed not to comment on the consultation document.

c) Meetings to attend, There will be a workshop on the Hampshire and Isle of Wight bid for devolution on 1st March 2016

91/15 To note and to consider supporting the Proposed Traffic Management on Byways Open to All Traffic (BOATs) in Selborne, Worldham and Grayshott.

Mark Kemp-Gee, Hampshire County Councillor, has asked the Parish Council to support the proposed Experimental Traffic Regulation Order (ETRO) in Selborne, Worldham BOATs 38, 40 and in Grayshott.

Councillors queried how HCC will protect the BOATs from motorised vehicles causing damage to the newly repaired BOATs. The Clerk explained that in addition to the above staged re-opening of the route following repairs, the Council proposes to implement an Experimental Traffic Regulation Order (ETRO), the effect of which will be to prohibit use of the route by all motorised vehicles, except for those who have applied for and been issued with a permit by the Council. The ETRO will be enforced by use of gates fitted with combination locks, the code for which will be given to permit holders only.

Councillors agreed that they were in favour of the proposed traffic management on BOATs. The Clerk was asked to inform Mark Kemp-Gee of the Parish Council's support.

92/15 To note any issues regarding the state of the roads, pavements and footpaths in the Parish

Councillors noted that the ditches at Manor Farm Cottages at West Worldham are blocked, with water flowing onto the road; 5-6 pot holes on Clay's Lane, a pot hole going up the slope on Wyck Lane, and that cracks are opening up on Green Street (B3004). All these to be reported to the Highways Department.

93/15 To note any issues that has been brought to Councillors attention

Councillors noted that within the South Downs National Park area it is anticipated that the CIL regime will come into effect from 1st April 2016. Until that date Section 106 funds can still be collected by the planning authority for environmental, community or transport projects.

Councillors noted that Section 106 monies are paid by developers as part of a developer's contribution. The monies have to be spent on Open Spaces. The Clerk was asked to verify with EHDC/SDNPA the amount of unspent Section 106 monies the Parish Council has and if any of it is time barred. Ideas of using Section 106 monies were briefly discussed including; on Paul Burch's field and other Open Spaces, improving car parking in and around the parish including Hartley Mauditt Church.

New Action Point December 01-15 Clerk to verify with EHDC/SDNPA the amount of unspent Section 106 monies the Parish Council has and if any of it is time barred.

94/15 Dates of Parish Council Meetings to March 2016

Normally the first Wednesday of each month. To note the next Parish Council meeting will be held on Wednesday 6th January at 7.30 pm at East Worldham village hall.

Cllr Blake thanked the Clerk for all the work he has done over the last few months.

The Chairman closed the meeting at 9.24 pm

New Action Points

Action ID	Action detail	Owner
December 01-15	Clerk to verify with EHDC/SDNPA the amount of unspent Section 106 monies the Parish Council has and if any of it is time barred	Clerk

**Annex to December 2015 PC Meeting
Response from solicitor**

Date of email 19th November 2015

Subject header: Legal Advice - The Parish Hall at West Worldham

Dear Robin,

Further to your instructions and our subsequent telephone conversation, I have now had the opportunity to consider the points raised in your email of 28 October.

My views have been formed from the background information supplied by you; copies of the title deeds of HP541909 which has the right noted against it; a telephone conversation with Thomas Brock from the PCC; and looking at planning application reference 56175 on the EHDC planning website.

Dealing with your points in order I reply as follows:

Does the letter of Consent sent by Cllr Brock providing consent to the removal of the restricted conveyance have any legal validity and can it be withdrawn?

The letter purporting to disclaim the right by Thomas Brock on behalf of the Parish Council has no legal validity as he was not properly authorised by the Parish Council to make this disclaimer and it is not in a correct form. I understand that the disclaimer was submitted to the Land Registry earlier this year and was rejected. If the Parish Council do go ahead and formally disclaim the right it should be done by deed and executed by the Parish in accordance with its standing orders. As the letter is not valid legally there is no need to formally withdraw it.

In the circumstances what is the likely legal ownership of the current building?

I understand from information supplied by you and information from Thomas Brock that in around 1928 the local community raised some money and purchased an old hut from the army in nearby Bordon. Ralph Dutton then allowed the hut to be erected on part of his land. In 1963 the land was sold off and in the conveyance the existing right as set out below was reserved to the PC in the conveyance.

"subject to the right in perpetuity of Worldham Parish Council to maintain the Parish Hall on part of ordnance survey 28"

There is no earlier documentary evidence recording this right as all the title deeds to the property were destroyed in the Blitz and the solicitor preparing the conveyance simply included the reference to the existing right.

The Parish Council were totally unaware of this right and there is not any reference to the Parish Hall in any agendas or minutes of the PC. Mr Brock also confirmed that he has lived in the village all his life and was unaware of the right. The PC has never exercised the right and has never spent any money on the Parish Hall in respect of maintenance or utilities/insurance and has never used the facility except on two occasions during the last 20 years when its own Village Hall was not available.

As the PC has never exercised the right and the right was clearly granted many years ago (before 1963), I believe it would be invalid because, before 16 July 1964, for a right to be valid it must take effect within, what was known as the Perpetuity Period, which at that time was fixed at 21 years after the death of an identifiable person alive at the time the right was granted (usually a reigning monarch). This old law is very odd but basically as your right was not limited to take effect within the Perpetuity Period there is no right at all.

Accordingly, I would set out in the preamble to any disclaimer of the right 'in so far as the right is capable of being exercised by the PC, as it appears to be void under the old common law rule against perpetuities, the PC disclaims the right etc etc'.

As far as the PCC is concerned, notwithstanding the wording of the right, I believe that it has a better claim to legal ownership of the Parish Hall. From what you have told me and also Mr Brock, the PCC has used the building on 5/6 occasions each year including the annual church meeting and has always paid the electricity bills and insured the building and taken out public liability insurance for events. I further understand that, when part of the roof was blown off and damaged a neighbour's property the Church's insurance paid for the damage, although the repair work to the Parish Hall was carried out by Hartley Park Farm Limited.

All this points to the PCC being the legal owner of the building in so far as anyone has an interest in the building because a building attached to someone's land enures for the benefit of the landowner. I suppose it is possible that the reserved right should have said the PCC not PC. Mr Brock says that, within the village it was always understood that the building was owned by the community and that, the PCC as a statutory body took responsibility for it. As we have already noted no one was aware of the reserved right to the PC.

Does the Parish Council have any right or obligation to demolish a building deemed to be unsafe and not financially viable to be put into a safe condition taking into account the uncertainty over its ownership?

I don't believe that the PC has any right or obligation to demolish the building which is unsafe and not financially viable because it does not have any interest in the building. You have confirmed that the PC already has a Village Hall and there is no evidence of any need for a second facility given the current usage of that building.

Submitting the Disclaimer to the Land Registry and getting the C3 entry removed at the Land Registry should be dealt with as soon as possible. Incidentally, the right is also registered against title number HP403123 also owned by Hartley Park Farms Limited. This is clearly a mistake as the Parish Hall is situated on the land within title number HP541909. I will arrange for this entry to be removed as well.

Does the Parish Council have the right to waive its rights under its charge to maintain a village hall on the site?

It is always possible for a beneficiary of a right to disclaim it. As I have already said, I do have doubts that as the PC has never exercised the right it actually exists legally anyway. I should also clarify that the PC is not charged to maintain the Parish Hall. The right is set out in the Charges Register of Hartley Park Farms Limited's title and is a charge against its property and when the word 'maintain' is used it is in the sense of 'keep on the land' not an obligation to keep in repair.

If there is no village hall on the land, does the Parish Council have any rights to use the land for any other purposes?

As I doubt that the PC has any rights in respect of the Parish Hall it follows that I don't believe that the PC could claim any rights to use the land for any other purposes.

The PCC might be able to claim rights over the land if the Parish Hall is demolished because of its usage of the Parish Hall for a number of years - there is the possibility of it claiming an implied lease.

Mr Brock confirmed that the PCC do not want the Parish Hall either because of its condition. I understand from my discussion with Mr Brock that as a result of the recent planning application that there was a proposal for the Parish Hall to be demolished and compensation to be paid to

the community which the PCC would use to upgrade other local community facilities. The attempt to disclaim the right by the PC was intended to facilitate the planning application. However, this application has now been withdrawn because EHDC has indicated that it will be refused, one of the grounds being, because the planning would result in the loss of a community asset contrary to one of its planning policies.

To conclude, I don't believe that the PC has any rights in respect of the Parish Hall and should go ahead and submit its disclaimer to the Land Registry to remove the entries regarding the right so that it takes itself out of the fray as far as the future of this building is concerned. You mentioned that EHDC were at one time considering serving a demolition notice on the PC in respect of the Parish Hall but it is interesting that one of the reasons for refusing the planning application was Village Hall Policy CP16 designed to protect social facilities. There will no doubt be further planning applications for this site so the future of this building is going to continue to be an issue.

You may wish to share my advice with the PCC but whether, or not, you do you should let them know that you intend to disclaim the right

I hope this deals with all your points your. Please call me to discuss if you have any further queries

Regards

Elaine

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