

NEWBOLD ASTBURY CUM MORETON PARISH COUNCIL

Minutes of the Parish Council meeting held on Wednesday 10th January 2018 at Astbury Village Hall.

Declaration of Interest

Cllr N Sharman - payments Fat Arrow Ltd and Cllr P Cliff – planning 17/6420C and copy letter from Hughes Paddison Solicitors.

It was noted the meeting was recorded by the Congleton Chronicle representative.

Public Forum

Five members of the public present including one member of the press.

Two residents wished to complain about the standard of Dodds Lane and the amount of HGV's travelling down the weight restricted road from Biddulph to Congleton and getting stuck as the road was unsuitable. They had brought a file with photographs to explain the damage to the road and the numerous complaints to Highways within Cheshire East which had not been resolved. They also wished the speed to be reviewed.

The proprietors of Alcumlow Farm distributed a leaflet to all the Councillors present. It explained the history of the site's development since the last planning application for the addition of an events venue. There were references to the Parish Council and they expressed their dismay at some of the references made and endeavoured to explain that they had now complied with all the conditions of the application.

Part 1

Present Councillor J Carter (who chaired the meeting), Councillor J Critchlow (Vice Chairman) Cllr R Sutton, Councillor P Cliff, Councillor A Banks, Councillor N Sharman, Councillor N Plant, Councillor R Bailey *Cheshire East* and the Clerk.

01/18 Apologies Councillor C Kennerley due to work commitments , Councillor R Lomas due to illness, Cllr P Critchlow due to illness, Councillor P Stanway due to a work commitment, Councillor N Barton due to illness and Councillor S A Banks due to a prior engagement .

02/18 Minutes

Cllr P Cliff proposed the minutes and Cllr N Plant seconded. All members supported accepting the draft minutes.

Resolved the minutes from 8th November 2017 were accepted and signed as a true and accurate record.

03/18 Planning Applications

- 17/6076M Oak Leaf Barn, Oak Lane, Astbury CW12 4TJ – Rear single storey extension.

Resolved No Objection

Cllr P Cliff left the room

- 17/6420C 1 Alcumlow Cottages, Brook lane, Brownlow, CW12 4TJ – Change of use of existing agricultural machinery and associated equipment.

Resolved No Objection with conditions

The Parish Council had received a copy of a letter sent to Cllr P Cliff from the solicitor Hughes Paddison Solicitors who had been instructed by Mr T Death and Ms B Wedgewood from Alcumlow Farm.

Cllr A Banks thought that the issues that had been raised with Alcumlow Farm had now obviously been resolved and the site was compliant as stated in the report from the Mrs B Lomas, Enforcement Officer, Environmental Protection dated 8th January 2018.

The Parish Council agreed that the item was now concluded and the proprietor had reiterated this in the public forum time. There would be no further debate.

Cllr P Cliff returned to the meeting.

04/18 Highways

Traffic Calming Survey

Cllr J Carter, Cllr N Sharman and the Clerk had met with Mr John Caruthers from VTC Consultancy. It had been agreed to put two traffic counters in the Parish in January to log traffic numbers, speeds and types of vehicle.

Resident proposal from the Village

The proposal was "NACM-PC adopts as a primary objective the widening of this pavement to 1500mm minimum width throughout its 321 metre length, and gains the agreement of Cheshire East Council in the fulfilment of this objective".

It was agreed this was not possible due to the width of the road and Cllr R Bailey supported the decision as Cheshire East would not be able to fund the proposal.

Footpath siding out along A34

Cllr R Bailey would pursue highways.

CCTV on the Village Green

Cllr A Banks had completed some research and it seemed the church had installed CCTV equipment. He requested it was deferred to the next meeting.

Wallhill Lane

Cllr P Critchlow, Cllr J Critchlow and the Clerk had met with highways to discuss the improvements. Highways had agreed to remove the temporary warning sign, improve signs in the new financial year and would review the hard core at the passing point.

There had been communication in relation to improvements when the CLR was built and some concerns in the proposals and the Clerk was requested to make a further meeting with Mr P Griffiths.

Dodds Lane

Resolved the Clerk would write to the companies involved and reiterate the weight limits.

The weight signs facing the wrong way would also be logged including Magpie Bank.

Resolved the Clerk would contact the local PSCO to monitor the site.

Resolved Cllr R Bailey and the Clerk would make contact with highways in relation to the road surface and gullies.

Resolved Cllr R Bailey would contact Mr S Wallace in relation to improved signage for weight limits.

Brook Lane

Not actioned

05/18 Cheshire Railings

The Clerk had obtained three quotes to paint the Cheshire Railings and research cost of replacement with new sections.

There had been a quote submitted for the repair which was in excess of the Financial Regulations tender amount.

Resolved the Clerk would obtain two more quotes to repair the railings.

06/18 Accounts

To note the balance of account – Royal Bank of Scotland = £11,157.05

Payments

- *Cheque Number 616 - £5.99 Mr A Banks (extension cable)*

- *Cheque number 617* - £79.89 Mrs J Mason (expenses from Sept to Dec)
- *Cheque number 618* - £48.00 Fat Arrow Ltd 60.00 NALC Local Council Award Scheme
- *Cheque number 619*- £35.00 ICO membership
- *Cheque number 620* - £1,747.47 inc £90.03 NI Cranage Parish Council (Clerks Salary Sept to Dec).
- *Cheque number 621* - £25.00 Glebe Farm Shop (Defibrillator Training)

Receipts

- Nil

Resolved the above payments be approved and signed for as above.

07/18 Newsletter

The Clerk had obtained two tenders to produce the newsletter for the Parish Council (one had failed to tender).

Resolved the Parish Council would instruct Crewe Colour Printers.

Resolved the Clerk under the new Data Protection rules would issue a contract of disclosure of information.

08/18 Cheshire East

Resolved to suspend the Standing Orders to accept a report from the Ward Councillor R Bailey.

Cllr R Bailey updated members on the corporate scrutiny committee meeting and a grant being given of £2m.

There was update on the Fire Service Station at Crewe having a shortage of fire service men. It was ideal to have work force being 5 minutes away from the station. This was not always easy to accommodate.

09/18 Local Council Award Scheme

The Clerk had submitted the application to CHALC at *Foundation* level. The Clerk advised that to achieve the *Quality Award* the Annual Parish Meeting needed to be improved.

The details of improving the meeting were discussed.

Resolved an additional meeting would be held on 6th May 2018 depending on availability of the Village Hall.

10/18 Complaints Policy

Resolved to adopt this policy

11/18 Chairman and Members report

Poppy Planting for the School

Cllr J Critchlow submitted a figure of £15.00 for the poppy planting project at the school

Resolved the Parish Council supported this proposal.

Church Wall

The Chairman had been approached by several residents querying the condition of a section of wall opposite the Village Hall which was also noted by John Carruthers from TWM Consultants during his visit. Similar concerns had also been raised by the Architect undertaking the Quinquennial Inspection for the Diocese.

Resolved the Clerk would write to the Church Secretary for advice.

May Day Meeting

11th January 2018 at the Edgerton Arms

PART 2

Resolved; "That in accordance with the public bodies (Admission to meetings) Act 1960 as extended by the Local Government Act 1972 section 100 the press and public

be excluded from the meeting for discussion of the under mentioned item on the grounds that the publication of the matter would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted"

12/18 Common Land at Brownlow

The Clerk and Cllr R Bailey had received a response from Mr B Power a Locum Solicitor - Cheshire East to resolve the issue of the boundary line of the Common land could being amended.

NB Appendix 1

Resolved the Chairman and the Clerk would arrange a meeting with Mr Mearman to discuss the options which had been presented.

13/18 The next meeting would be the on 14th February 2018 at 7.30pm in Astbury Village Hall.

Meeting closed at 10.05 pm

Appendix 1

Dear Julie

This matter has been passed to me by my manager Trish Evans and I set out below the answer to your question;

I understand that this parcel of land is registered as Common land(your e mails of 23.11.17). The simple answer to the question is, certainly since the Commons Act 2006 (the 2006 Act), that registered common land remains common land until it is de- registered from the register.

There are a number of ways that common land can be deregistered but all involve a statutory procedure and ultimately an application to the registration authority to effect the de registration. Two common ways are for the deregistration to be effected are;

- (i) By deed between the owner of the land and the parties who hold the common rights over it. That is under section 13 of the 2006 Act (attached). I also attach the precedent deed that can be downloaded from the government portal for information. This also entails an application being made to the registration authority once the deed is completed
- (ii) Another way is for the owner to make a direct application to the appropriate national authority for the deregistration of the Land from the register. The "appropriate national authority" is the Planning Inspectorate and in specified circumstances can entail the provision of land to substitute the land being deregistered (see s16 attached). I have also attached the government guidance on this procedure. If PINs authorise the de registration an order is given to the Registration authority (CEC) authorising them to remove the land from the register and if required register the substitution land.

(iii) Another procedure that could be utilised is for the owner to seek consent from the appropriate national authority to do works on the Common Land including the erection of fences. I have attached the government guidance on this which, amongst other things governs the erection of fences. There are special cases which are not relevant here and it will be seen that the procedure is quite involved and where there are objections to the works the likelihood is that the matter will be referred to a hearing or public inquiry.

As to Mr Mearmans assertion that he can assert adverse possession to resolve his difficulty that is not correct. It is possible to acquire ownership of Common Land by adverse possession but that will not extinguish the rights of common over the land and the new owner (acquiring his ownership adversely) will be subject to those rights unless and until the rights of common have been deregistered, (see govt guidance on this attached). It is also not easy to establish adverse possession as activity which could be sufficient to establish adverse possession on unregistered land could in relation to common land be viewed as no more than lawful exercise of the rights of common.

Assuming that the land now fenced off by Mr Mearman has not been de registered and doesn't fall within any of the exceptional cases (see guidance and this doesn't appear to be the case) the position is that he has carried out unauthorised works on common land and could be subject to civil action seeking an order from the Court (the County Court) that the unlawful fencing be removed. Sections 38 and 41 of the 2006 Act relate to this(attached).

The civil action can be taken by anyone but see the guidance on this at p 8 of the guidance under "Court action against unlawful works." The problem here is that there is no obligation on the Court to make the order and I wonder if they may refuse to do so if the particular circumstances complained of have been present for a lengthy period of time which I believe to be the case here.

I trust this assists.
Bob

Bob Power | Cheshire East Council
Locum Planning Solicitor

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Attachments were provided for each option