

LEVINGTON AND STRATTON HALL PARISH COUNCIL

MINUTES OF THE PARISH COUNCIL MEETING IN THE VILLAGE HALL HELD ON

Monday, 25th March 2024 at 6.00 pm

Present:

Cllr John Ross (Chairman)
Cllr Chris Yeo
Cllr Derek Dickerson
Cllr Cate Last
Cllr John Parrish
Cllr Neil Downing
Parish Clerk Angie Buggs
Cllr Lee Reeves East Suffolk Council
Cllr Mike Ninnmey East Suffolk Council
12 members of the public

VILLAGE FORUM

An opportunity for residents to give comments on any issues on the agenda. (As per standing orders max 15 minutes unless otherwise directed by the Chairman, a member of the public shall not speak for more than 3 minutes).

A resident asked if the Parish Council could give consideration for double yellow lines on Church Lane (Pilots Way to Trickers Wood). The road is narrow and is extremely dangerous when there are parked cars on a blind bend. Cllr J Ross said it would be discussed by the Parish Council and consideration given to writing to Suffolk County Council Highways.

A resident queried why the precept had been increased by 38%. Cllr J Ross, Chairman of the PC, stated that when setting the budget for 2024/2025 councillors agreed that the cost of running the Parish Council should be met by the precept and the reserves should not be used for day to day running costs. He said the correct the process for setting the budget and precept had been followed in that prior to the November Parish Council meeting the budget was circulated to councillors to enable the debate to take place at the November meeting. Councillors accepted the budget and the precept.

33.24 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Ann Wignall (illness). Cllr J Ross explained that if a councillor does not attend a meeting for six months they are automatically disqualified from office. The six months can only be extended if councillors agree, by a majority of votes. Cllr J Ross proposed that the councillors accept Cllr A Wignall absence due to illness and agree to review at the Parish Council meeting in September 2024, seconded Cllr C Yeo – all in favour. **Action: Clerk / Chairman**

34.24 CODE OF CONDUCT & DECLARATIONS OF INTEREST

Cllr C Last declared an interest in Planning Application DC/24/0800/FUL 2 Seabridge Cottages Stratton Hall Drift Stratton Hall Change of use for a holiday let as this planning application related to her property.

35.24 TO CO-OPT A PARISH COUNCILLOR AND SIGNING OF DECLARATION OF ACCEPTANCE OF OFFICE

The Chairman reported that Neil Downing had put himself forward to become a Parish Councillor and the Clerk had checked his eligibility. Cllr J Ross proposed that Neil Downing be co-opted on to the Parish Council, seconded Cllr C Yeo – all in favour. Neil Downing signed the Declaration of Acceptance of Office form and the Clerk said she would arrange for the completion of the Register of Interests with East Suffolk Council. **Action: Clerk / Cllr Neil Downing**

36.24 TO DISCUSS THE USE OF CHURCH FIELD FOR CAR PARKING

Cllr J Ross reported that a question has arisen about the use of Church Field for car parking. The issue to be discussed is divided into two parts.

1. Is the Parish Council permitted to approve the application for Church Field to be used for parking? This question relates to the legality concerning the terms of the spirit of the bequeathing.
2. Should the Parish Council approve the application for Church Field to be used for parking if the answer to Question 1 is that the Parish Council can legally use Church Field for parking.

The following report sets out the history of how Church Field came to be under the control of the Parish Council, and the legal terms and conditions of that arrangement.

Source documents for the information provided:

- Copy of signed minutes of Parish Council Meeting 18th April 1978.
- Copy of legal bundle containing the Deed of Assent document for transfer of the land to the Parish Council and associated legal correspondence.
- Church Field Management Working Party Report.

Background

Since 1948 the land that now comprises of Church Field, Trickers Wood, and the plot that is now the dwelling 'The Driftway' was owned by Mr A. It was at that time all one parcel of land referred to as the 'wood and meadow'; The Driftway had not been built. See the plan at Appendix A.

In the late 1970s there was conversation with Mr A about the idea of the Parish Council purchasing the land from him. In a letter sent by Mr A's solicitor dated 1st April 1978 it is stated:

- *it was his "intention to give the greater part of the land (wood and meadow) to the Parish" in his will,*
- *his "executors would retain a small piecefor building a small house*
- *"My purpose in buying this land in 1948 was to prevent any sort of development which could spoil the view of the river from the Church and of the village from the river and I would make it a condition of the bequest that there should be no development there, but that it be kept as an open space for all time"*

The Parish Council Chairman and two other members of the Parish Council met with Mr A to discuss this, and reported to the Parish Council meeting held on 18th April 1978 (extract of minutes):

"Following a suggestion that the Parish Council should buy the wood for the village, the Chairman and two other members of the Parish Council met with Mr (A). He has offered the major part of the wood and meadow to the village on his death on condition that no building is erected, it is not used as a car park and the trees are protected against horses".

Mr A confirmed in a letter to the Parish Council dated July 1978 that he had changed his Will:

- *" which provides for the larger part of the land to be left to the parish, with a condition that no building shall at any time be erected on it out that it shall remain grass and woodland as at present"*
- *A small piece of land would be left to his daughter-in-law in case she wishes to build a small house there.*

The Parish Council did not buy the land; all except the parcel of land that is now The Driftway was bequeathed to the village by Mr A in his Will, upon his death in 1981.

A letter from Mr A's solicitors regarding the terms of the Will and land bequeathed to the parish stated that:

Land ... to be held by the Council... as an open space for the benefit of the inhabitants of Levington... subject to certain conditions:

a) Re. fencing

b) Prohibition was imposed that no building should be erected on the land apart from such permanent or temporary facilities as the Council decided were required in connection with the use of the land as a place for public recreation.

council given power to manage the land and to let for grazing but not for allotments.

A Deed of Assent to formally accept the bequest was signed by the Parish Council in March 1982.

In September 1982 the council sought and obtained planning permission for a change of use to a "Playing Field", and for some time subsequently it was referred to as such.

Legal Conditions

Mr A's Will

We do not have a copy of Mr A's Will, however in 1990 solicitors representing Mr A's son wrote providing an extract:

Under his Will the late (Mr A) included a bequest of land at Levington...:

Upon trust as permanent endowment for charitable purposes as an open space for the benefit of the inhabitants of Levington...

The Will included certain conditions:

"...no building, shed, house on wheels, or other erection shall be erected, bought on to or permitted to remain on the said land or any part thereof otherwise than such permanent or temporary facilities as the (Parish Council) decide in connection with the use of this land as a place for public recreation"

The Deed of Assent

This document provides us with some legal conditions:

"the Beneficiary hereby covenants with the Executors for the benefit of the said adjoining land that no building, shed, house on wheels or other erection shall be erected, bought onto or permitted to remain on the property hereby conveyed or any part thereof otherwise than such permanent or temporary facilities as the beneficiary may decide in connection with the use of the property as a

place for public recreation, and that the said property shall not be used for the purposes of allotments.”

The key aspect of the legal conditions as far as the question of using the land for car parking are:

- *‘as an open space for the benefit of the inhabitants of Levington’* (Will)
- *‘use of this land as a place for public recreation’* (Will and Deed of Assent)

Spirit of the Law

In a publication by the Cambridge University Press it states (2023):

The letter of the law is its literal meaning. Here, the spirit of the law is its perceived intention. We find that one can incur culpability even when the letter of the law is not technically broken.

In 1990 the Parish Council sought planning permission to build a Village Hall on the land; it is this application that stimulated the letter from Mr A (Jnr) solicitors. In that 1990 solicitor letter it states:

We have to say that it is unfortunate that within 10 years of this generous bequest it is proposed to infringe the underlying spirit of the gift by seeking planning consent to erect a village hall on the land. The deceased's wish was that it should be maintained as an open space not least when viewed from the opposing banks of the river Orwell. Apart from seeking to break the spirit of the agreement, the council accepted the land as an open space and it would be in breach of the terms of the gift for the village hall now to be erected on the site. While the gift acknowledged the possibilities of the erection of buildings, any were limited for use in connection with the land as a place of public recreation, and we would have thought it patent that a village hall is not a building which is ancillary to the use of the land as a place for public recreation.

In the correspondence with/by Mr A/his solicitor in relation to the land, some prior to his death, we acquire a clarity on Mr A's intentions - the spirit behind his bequest:

1. *“My purpose in buying this land in 1948 was to prevent any sort of development which could spoil the view of the river from the Church and of the village from the river and I would make it a condition of the bequest that there should be no development there, but that it be kept as an open space for all time”* - letter sent by Mr A's solicitor dated 1st April 1978, quoting Mr A.
2. *“He has offered the major part of the wood and meadow to the village on his death on condition that no building is erected, it is not used as a car park and the trees are protected against horses”* Report to the Parish Council meeting 18th April 1978 by the Chairman following his meeting with Mr A.
3. *“Land ... to be held by the Council... as an open space for the benefit of the inhabitants of Levington... ... use of the land as a place for public recreation”*. Letter from Mr A's solicitor after his death in 1981.

Conclusion

The key terms for consideration by the Parish Council in respect of the use of the land to park cars are:

- A. Spoil the view of the river from the church, and of the village from the river.
- B. Open space.
- C. Car park.
- D. Use of land as a place for public recreation.

The Chairman closed the Parish Council meeting to allow members of the public to speak.

A resident stated that the Parish Council had produced a very detailed report on the historical documents. A resident commented that a Planning Application for a Village Hall was turned down a few years ago by the District Council. I think we should respect the wishes of the Benefactor. The Benefactor made it very clear “no parking of cars”.

The Chairman reopened the Parish Council Meeting.

Councillors debated the evidence for the use of Church Field. Cllr J Ross stated that the issue of using Church Field for parking was about whether we feel under the terms of the bequeathing of the land was “are we permitted to do it rather than whether we should”?

Cllr J Ross proposed that the Parish Council is not legally permitted to use the land for the parking of cars as detailed in the historical documents available, seconded Cllr J Parrish – all in favour. The decision was unanimous by the Parish Councillors present at the meeting.

Cllr J Ross reported that the Parish Council had received a request from St Peters Church to allow Church Field to be used to park cars on the 30th June 2024. It was agreed that this request should be refused.

The Chairman closed the Parish Council meeting to allow members of the public to speak.

The representative of St Peters Church present at the meeting stated that he withdrew his request to allow car parking on the 30th June 2024 as he would be asking the Parish Council to break their legal position. **Action: Cllr J Ross / Clerk**

The Chairman reopened the Parish Council Meeting.

37.24 PLANNING

- a. **DC/24/0800/FUL 2 Seabridge Cottages Stratton Hall Drift Stratton Hall IP10 0LW – Change of use for a holiday let.**

Cllr C Yeo the Lead Councillor for the Planning Application reported as follows:

This application relates to change of use from the existing residential purpose to a holiday let. The existing residential premises is a detached building from the main house, which fronts onto a large shingle parking area to the South of the main house.

The main house is a semi-detached cottage. The holiday let is not visible from the other semi-detached cottage.

There is sufficient road access to the premises which is a wide track capable accommodating two vehicles passing. The house and holiday let are outside the confines on the green lanes area, and as it is only a one-bedroom facility the volume of additional traffic will be minimal. There is considerable off-road parking available.

Cllr C Yeo had contacted the only other impacted consultee who lives at 1, Seabridge Cottages, who had no objection to the proposed change of use, and indeed would probably support it.

Cllr C Yeo recommended that the Parish Council should have no objection to the proposed change of use application.

The Chairman closed the meeting to allow members of the public to speak.

No members of the public wished to speak.

The Chairman reopened the Parish Council Meeting.

Cllr C Yeo proposed that the Parish Council support the Planning Application, seconded Cllr J Parrish – all in favour (excluding the applicant Cllr C Last). **Action: Clerk**

b. DC/24/0449/FUL Part Land at Foxburrow Farm Waldringfield Road Brightwell – Change of use of land for the storage of 1200 containers including erection of associated fencing.

Cllr J Parrish the Lead Councillor for the Planning Application reported as follows:

Foxburrow Farm is sited to the south of Ipswich Road and is accessed via an established access that serves the existing land uses, including two solar arrays, a caravan sales/repair/service operation and a recently consented waste management operation.

Very little information has been provided, particularly in view of the fact that the applicant would be storing a large number of containers (up to 1200) in a rural setting and the Parish Council would make the following observations:

1. How will the containers be loaded and unloaded from lorries?
2. The height to which the containers will be stacked?
3. How many lorry movements per day, per week or per year?

In addition, the applicant has failed to provide a Traffic Plan to anticipate the net impact in terms of HGV movements to and from the site.

If this Planning Application were to be approved, we request that the Planning Officer considers prohibiting all HGVs from using the C375 Brightwell Road and that measures are put in place to ensure that vehicles use the A12/A14 route to and from Felixstowe Dock. The Parish Council are concerned about the impact the additional HGV movements will have at the Seven Hills Junction. If this Planning Application were allowed, coupled with the Planning Applications already approved, such as Brightwell Lakes and those which are in the planning process such as the Land Opposite the Seven Hills Roundabout for a Business Park, this would result in even more congestion at this already junction bottleneck.

The Chairman closed the meeting to allow members of the public to speak.

It was noted that a number of Parish Councils (Martlesham, Bucklesham, Hemley, Brightwell Foxhall & Purdis Farm, Nacton, Waldringfield, Kirton, The Trimleys) had all submitted objections to the Planning Application as it was felt this application, if approved, would open up the area for the Port of Felixstowe use and unwanted intrusion into the countryside. Concerns were also expressed about the impact the increased HGVs would have on the already congested Seven Hills Roundabout. A resident stated that a few years ago a collective was formed in relation to the Innocence Lane planning application as it was believed there is strength in numbers to try and stop the storage of containers in the countryside. It was believed that the Planning Application was contrary to:

SCLP4.2: New Employment Development; in that where a need for additional employment development has been demonstrated or it can be demonstrated that there is no sequentially preferable land available adjacent to existing Employment Areas, within existing Employment Areas or within Settlement Boundaries and: a) It would not have an unacceptable adverse impact on surrounding land use; and b) It avoids, or adequately mitigates, any adverse impact

on the character of the surrounding area and landscape, the AONB and its setting or the natural or historic environment.

The Chairman reopened the Parish Council Meeting.

Cllr J Parrish proposed that the Parish Council object to this application on the grounds highlighted, seconded Cllr C Last – all in favour. **Action: Cllr J Parrish / Clerk**

Cllr J Ross requested that the District Councillors Lee Reeve and Mike Ninnmey agree to request that the application is handled the under planning committee member call-in process, seconded Cllr C Late – all in favour. **Action: Clerk / Cllr Lee Reeve / Cllr Mike Ninnmey**

38.24 DATE OF NEXT MEETING: MONDAY, 29th APRIL 2024 (ANNUAL PARISH MEETING) AND MONDAY, 20th MAY 2024 (ANNUAL PARISH COUNCIL MEETING) IN THE VILLAGE HALL

The Chairman closed the meeting at 7.30 pm.

VILLAGE FORUM (Opportunity to raise issues not necessarily on this agenda)

Cllr Mike Ninnmey reported that he had attended the recent the NHS Care Board's meeting chasing the provision of dental care (see previous video) and community care on our peninsula. Mike gave an interesting and informative report.

Signed..... Date

Angie Buggs
Clerk to Levington and Stratton Hall Parish Council