

Minutes of the Extraordinary Meeting of Belbroughton Parish Council held in The Jubilee Room Belbroughton Recreation Centre on Monday 16th June 2014.

Present: Cllrs. K Green (Vice-Chair), J Bradley, I Dalziel, A Ince, T Jones, A Mabbett, P Margetts, R Morgan, C Palmer and C Scurrrell.

In attendance: John Farrell Clerk, twenty two members of the public also attended.

221/14 Apologies

Apologies were received and accepted from Cllr. Hood, Roberts, and Shotton.

222/14 Declarations of Interest None.

223/14 Dispensations None requested.

224/14 Cllr. Green chairing the meeting due to the absence of the Chairman Cllr. Roberts informed the meeting that the agenda items 1a and 1b had been listed to only discuss the boundary issues at The Green, Belbroughton and not the wider subject of the future of The Green. That subject would be discussed at future Council meetings and at residents' consultations.

[The Meeting was adjourned for members of the public to speak on any matter of concern relating to the agenda or for future discussion.](#)

224/14 Meeting was re-opened.

The Green Belbroughton

A proposal that this part of the meeting was held without the public present due to possibly commercially sensitive information being discussed was defeated.

The clerk updated members on the boundary situation since the last Council meeting on 2nd June:

1. No further activity had been seen on the development land adjacent to the Green. The alleged trespass by the Developer was still apparent and thus had not been remedied by him removing fences or stakes.
2. At the request of Council 2nd June Cllrs. Green and Bradley and the clerk met with MFG the Council solicitors on 11th June and following that meeting this Extraordinary Meeting was called to report and seek approval for further action.
 - a. Solicitors advised that it is important to maintain a robust stance where there is the clear evidence of trespass.
 - b. Additional evidence was put before the lawyers, specifically the minutes audit taken from the archives on 27th May 2014 covering items back to September 1997. These appeared to confirm an earlier understanding between the Council and the current developer to a specific position of the boundary.
Cllr. Bradley expanded on these minutes in detail which appeared to confirm that concrete and other posts clearly marked the boundary thus confirming the Council's current stance on its position.
 - c. Further it was noted that the Tree Works Decision Notice agreed by BDC previously applied for by the Developer on the PC land included a request to remove 12s beech trees from PC land. Thus difficult to see why the Developer was now claiming ownership of these trees and not so when applying for the permission.
 - d. This information (points b & c) the lawyers felt gave a reasonably clear case regarding where the boundary sits notwithstanding also the possessory title the Parish Council would likely claim anyway due to 'tending' the entire area, plus the recent photographic evidence.

- e. The solicitors did not see the benefit in procuring a separate surveyor to examine the boundary since a court would look at subsequent actions on the land rather than plans.
 - f. The solicitors advise that the existence of possible footings underground and thus on PC land did not construe a right for them to be there nor did it re-draw a boundary because of their siting.
 - g. The 'Letter Before Action' sets out protocols for action and requires a response from the defendant within 21 days. The solicitors advise that it would help the case even further if individuals involved in communications with the Developer in 1997/99 were prepared to sign formal declarations of the actions agreed at that point. Cllr. Bradley had informed the solicitors that those individuals remained in the village today.
 - h. Boundary positioning seems apparent due to an agreement minuted 2nd March 1998 concerning notional damages paid by the owner's of the adjacent land for an acknowledged prior trespass.
 - i. The solicitors would advise the valuer – Fisher German to proceed with their work on assumption that PC owned the land as previously stated.
 - j. The solicitors did question the likelihood of any significant damages being payable due to the limited trespass in terms of land area involved. Thus notwithstanding the principle involved they would caution both sides on the legal costs of taking action.
3. The solicitors had advised the Council of its likely costs payable in respect of the preparation and issue of the 'Letter Before Action' and potentially the costs of an injunction. The PC's insurance company has confirmed that cover is available to seek the necessary legal remedies.
 4. A letter had been received from the Developer on the day of the Extraordinary Meeting which had been circulated by e mail to councillors. Council agreed that it could not discuss its content at the meeting since members had either not yet seen it or not had the time to review its contents and assess a response.

The meeting chairman invited comments from members of the public to provide councillors with additional information.

Council approved unanimously a proposal to instruct its solicitors to issue the 'Letter Before Action'. Council also noted that notwithstanding the current boundary dispute it would proceed with obtaining the professional valuation and in due course seek an agreement with the developer with regards to his requests of the Council.

A decision on whether to issue a questionnaire to residents on the future of The Green was deferred until a future meeting. Council noted that there would be future consultation with residents.

225/14 Councillors Items

No items were reported.

Meeting Closed at 8.30 p.m.

Chairman.....