

ELDERSFIELD PARISH COUNCIL

Minutes of the Meeting of Eldersfield Parish Council held on
Thursday 10th November 2011 at Eldersfield Lawn School, commencing at 7.30 p.m.

Present: H.S. Davis (Chairman), C.H. Jeffes, R.S. Manwaring MBE,
B.N. Parsons, Mrs C Powell-Chandler, D.J. Tombs,
C J Whitehead, Mrs R Willder, and O D Williams

In Attendance: County Councillor Tom Wells
District Councillor Bronwen Behan

**Members of the
Public:** 9

1. Apologies for absence

Apologies: none

2. Members' interests

Clls Davis, Willder and Williams declared a personal interest in Item 16.

3. Adoption of the Minutes of the previous meeting

The Minutes of the meeting held on Thursday 8th September 2011 were accepted as a true record of that meeting and were signed as such by the Chairman of the meeting.

4. Matters arising

None

5. Report from Police Beat Manager

No report was available. The Clerk advised the meeting that he had received a letter from West Mercia Police advising that because of frustration arising from the inconsistency of police attending council meetings it had been decided to avoid the possibility of such frustrations in the future by discontinuing police attendance at meetings, with the exception of the annual meeting of the Council,.

Councillors deplored this approach. They had frequently changed the order of the agenda in order to accommodate the policeman attending, and had always recognised the meeting as a useful forum for an exchange of views.

The Clerk was instructed to make their views known to the constabulary.

6. Reports from District and County Councillors

Cllr Bronwen Behan asked the meeting to note that BT had started Race to Infinity – if sufficient people log on a fibre optic connection will be supplied; Malvern Splash will be closed from 6th to 19th December; the bridge at Upton will be closed [latest news – not this year] and the Village Agent scheme is in hand with NHS Worcs being re-developed.

7. Public Comment

A large public contingent expressed an interest in the application for planning permission for the increase in authorised throughput at the composting site and the construction of offices. They noted that WCC was considering dealing with these two applications separately and claimed that this would be capable of setting a precedent, perhaps prejudicing councillors considering the later application, and be unfair to them as residents given that they would have to travel a long distance twice in order to attend the meetings.

They made it clear that the composting unit continues to be obnoxiously odorous, that high levels of bioaerosols had been detected on a nearby path and that a farmer had been advised not to keep stock on land close to the composting site. The residents believed that they were receiving scant attention from all the authorities who appeared to have no effective means of monitoring bioaerosol emissions.

Cllr Tom Wells noted the points. He suggested that it might be helpful if he were to arrange a meeting with planning staff at County Hall in order that their questions and queries might at least be put if not answered. They agreed. Cllr Wells would contact the Clerk with a date.

8. Planning matters

PLANNING APPLICATIONS

SECTION A

SUMMARY OF PLANNING DECISIONS SINCE LAST MEETING

- 11/00228/FUL** Change of use to Lorry Park (Retrospective)
- Link End Timber, Link End Road, Corse Lawn, Worcestershire, GL19 4NN
 - R Denniss

Council's Comments

Access to the site is via a narrow meandering country lane (Link End Lane) for approximately half a mile having left the B4211 opposite the parish school.

Our concerns are concentrated on this stretch of lane as follows:

1. The junction with the B4211

Mornings, afternoon and evenings (when a school event is being held) see up to twenty parents park on the both sides of the Link End and walk across the road to the school with their respective children.

Whilst traffic calming has been introduced 'near misses' are reported quite frequently and confirm that this remains a potentially dangerous stretch of road.

Once in Link End Lane vehicles are confronted by activity from the home for vulnerable young adults and children. Large lorries meandering through this congestion are a recipe for disaster

2 Site entrance into Link End Road

The approach lane is barely wide enough for a lorry, with no bell mouth scope to improve entry into Link End Lane, consequently any lorry leaving the site has to cross the centre of the Link End Lane and cuts the verge on the opposite side of the lane

Not only is this stretch of the lane very narrow, erosion of the land edge and ditch maintenance have resulted in extremely narrow verge for 100 yards at least.

This stretch of the Link End Lane is used by walkers, pony riders and large agricultural machinery; the additional activity from the horses would again make this a potentially dangerous stretch of road.

3. Proximity of roadside Cottages to highway

Whilst accepting that lorries currently proceed with care, there is inevitably noise from such large lorries. This has been measured and evidence is available confirming that noise levels are unacceptable

Currently lorry activity starts early morning (often 4.00 am) and continues for several hours. We would not support any operating hours restriction as concerns raised above would only be escalated

Based on the points listed we cannot support this application and must oppose it.

However the site is well secluded and quite remote from any dwelling, offering opportunity to optimise this site potential with a more appropriate venture.

Refused / Appealed

11/01072/FUL

Removal of two timber stable buildings, extension to existing steel framed storage building and construction of an all weather manege

- Harp Cottage, Drinkers End, Corse Lawn, Worcestershire. GL19 4NE
- Graham Haynes

Council's Comments

The location of the extended storage building and manege will sit comfortably on the site. Impact on neighbouring properties is minimal. We support the application.

Full Planning Permission

11/00825/HOU

- Single storey rear extension and internal alterations
- Maldorjay, Long Green, Forthampton, Worcestershire GL19 4QQ
 - Mr G Taylor

Council's Comments

This modest single storey extension is confined to the rear of the property offering little or no impact on neighbouring properties. We support the application.

Approval (Full) Planning Householder

11/00869/FUL

- Conversion of an existing redundant building to create one bedroom ancillary annexe
- Elm Farm, Corse Lawn, Worcestershire, GL19 4LZ
 - Will & Sue Clements

Council's Comments

Conversion of a deteriorating, redundant building can only enhance the general appearance of the farm property. Impact on the neighbouring property is virtually non-existent. The size and characteristics remain virtually unaltered.

We support the application.

Approval (Full Planning)

11/01047/LBC

- Internal and external alterations to include reinstatement of door, timber frame wall/screen. Replacement of staircase, porch to west elevation and windows. Rebuild chimney, repoint brickwork and remove wall, partition to bedroom and upvc cladding
- Hill Court Farm, Frogmarsh, Corse Lawn, Worcestershire, GL19 4PW
 - Dr L & MMA Blake

Council's Comments

We support the initiative to continue restoration both internally and externally under the guidance of listed building control.

Consent (Listed Building)

SECTION B

SUMMARY OF PLANNING APPLICATIONS AWAITING DECISION

- 11/000029/CM:** Variation of Condition 18 to “The annual throughput of material through the site shall be limited to a maximum of 9,000 tonnes per annum and records shall be kept for the inspection by the County Planning Authority on request of the amount of throughput of material for the duration of the operations on site” and removal of Condition 19 “The compost shall only be applied to land on the applicant’s ownership of Planning Permission 407703
- Pendock Environmental, Pendock, GL19 4PR
 - Pendock Environmental

Council’s Comments

I write with respect to the two planning applications upon which you have recently consulted us.

My council has considered these two planning applications very carefully and I am instructed to pass to you the following comments.

Attendance at the last two meetings of my Council has by historical standards very been large and the key matter of interest has been the above planning application. There is no doubt that all members of the public had very strong, and adverse, feelings on the matter.

Complaints about the existing composting unit were legion and we understand that many of these complaints have been put directly to you or to other officers of your council.

Smell

The one clear stark unassailable fact about the existing plant is that it stinks. We know of no measure by which the strength or degree of unpleasantness of the smell can be measured but we do know that it is sufficiently obnoxious for our two most recent council meetings to have had the highest public attendance we have seen for many years, of people who were clearly beside themselves with the misery imposed upon them by the operation of this plant.

If you were to permit an increase in throughput, then we understand that the process is such that the smell would be even greater and we believe that these are sufficient grounds for you to refuse permission.

Limited Operating Experience

We wish also to bring to your attention that the plant commenced operations only in late 2010 and that the operator of the process has therefore had less than one full year’s experience of managing the plant. Because not a full year has passed, it is possible that there are sorts of compost which are even more intractable than those which have already passed through the plant.

The problems caused by the plant are acknowledged by the operator. He has experimented with various factors in the production process in an attempt to identify the cause of the smell and reduce or even eliminate it; unfortunately, all of these attempts have failed. It may be that

the operator will one day be able to improve the performance of the plant to the extent that it is no longer the object of complaint by local residents, but to do this he manifestly requires more time.

Developing Technology

We understand that the production process for which this plant has been designed and constructed is under review at European level and that the UK government intends to conduct a review in September. Industrial composting is a developing science. The current process has a number of recognised disadvantages and other more environmentally sensitive processes – such as in vessel composting – might be recommended for national adoption.

We believe that the reasons cited above constitute strong grounds for you to refuse the application for a variation of the terms of the planning consent.

Pending

11/000030/CM

- Replacement of a temporary mobile office with permanent building
- Pendock Environmental, Pendock, GL19 4PR
 - Pendock Environmental

Council's Comments

With respect to the application for permission to construct a permanent building, we believe that your decision should follow your decision in relation to the variation of planning conditions, i.e. if you grant the change in terms of planning consent, we would have no objection to this application being granted but if you were to refuse to vary the conditions we believe that the building should remain temporary.

Pending

9. Old Timber Yard:

It was noted that an appeal had been made against an Enforcement Order issued by MHDC.

10. Composting Unit

The matter had been lengthily discussed during Public Comments and it was agreed that no further discussion was required.

11. Development Plan

The Council noted receipt of the South Worcestershire Development Plan. The Chairman undertook to review it and make appropriate comments.

12. Notice boards

The Clerk reported that there had been no developments.

13. Lengthsman

The Clerk reported that it was not permissible for the Council to appoint a member to a paid position, and therefore that the proposal previously raised would be illegal. It was suggested

that an alternative candidate from outside the parish might be found and the Chairman agreed to make enquiries.

14. Diamond Jubilee

It was noted that a public meeting would be held at the School on Monday, 14th November at 7.00 pm.

The possibility was recognised that there could be, either at that meeting or before the next Council meeting, a need for the Council to assume a financial commitment to assist in assuring the celebrations. To assist this, it was **RESOLVED** that the Clerk, having consulted the Chairman or in his absence the Vice-Chairman, be authorised to spend not more than £300 for the purposes of assuring the Diamond Day celebrations.

15. Community Fund

The Chairman reported that although he had had further discussions with the Chairman of the Community Fund he could give members no indication of when the promised payment would be made.

16. Allotments for Exercise and Recreation Charity

Cllr Davis, having declared a personal interest, absented himself from the room. Cllr Manwaring took the Chair.

The Clerk made a statement. He said that, since issuing the agenda, the Council, in its capacity as Custodian Trustee, had received a request from the Trustees to execute a lease in respect of the Charity and that the Council was obliged to comply with that request regardless of the wisdom or foolishness underlying it but only on condition that to do so was not unlawful. He explained that if a council in such circumstances were to execute a lease unlawfully, it could lay itself open to criminal charges and be liable for damages. He said that responsibility for managing the charity and its assets lay exclusively with the Trustees.

A previous lease, dated 1st March 2011 and executed by the Trustees purportedly acting for the Council had been refused registration by the Land Registry.

The Clerk described the legal situation. He suggested that the Trustees, who had been advised by their solicitor that the general public should retain access to the land, had failed to secure that access because the Community Use Agreement (CUA) into which they had entered and which granted that access could be terminated by any party at whim. If such access were a necessary condition of the Lease not being unlawful – and he had not seen the advice given to the Trustees by their solicitor - then it was not provided by the CUA.

He then made it clear that he understood that Charity Commission approval was required for the proposed Lease and that it had not been obtained; that the Council should look principally if not solely to the document it was being instructed to execute for satisfaction that it was not unlawful; and that although certain formalities were required under s36 of the Charities Act 1993 and the Trustees reported that they had received an oral assurance from their solicitor that they had so complied, he had received from the Trustees no information as to what had in fact been done.

He concluded by recommending to the Council that it would be unsafe to execute the Lease because the Council could not be reasonably satisfied that to do so was not unlawful.

In a lengthy debate which ensued, the Trustees opined that no Charity Commission approval was required and that they had at all times acted diligently and in accordance with the legal advice they had received. They suggested that Council could rely on the advice which their solicitor had given to them and be indemnified by so doing. However, the Trustees agreed that there had been an inconsistency in their approach to assuring the public access to the land and undertook to raise the matter with WCC with a view to agreeing an amendment to the CUA.

The Chairman was of the view that the Land Registry would not register a lease if it had not been properly executed.

The Trustees said that it would be in the interests of the School and community if the lease were executed promptly; they said that the Lease included a requirement that the land be improved and they also wished to enable WCC to apply for grants available from National Grid and others.

In order to expedite matter, it was **RESOLVED** that a Finance Committee be established with the purpose of considering and, if thought not unlawful, executing with WCC in the name of this Council in its capacity as Custodian Trustee a Lease and Deed of Surrender, and that the Committee comprise Cllrs Manwaring, Parsons, Powell-Chandler and Tombs, and that the quorum be three.

It was **RESOLVED** that the Finance Committee be authorised to spend not more than £500 excluding VAT in securing legal advice in connection with the proposed Lease and Deed of Surrender should it deem such advice either necessary or desirable.

17. Authorisation of Disbursements

It was **RESOLVED** that the following disbursements be made:

£	280.57	J L Gabbott
£	69.04	HMRC
£	37.31	MHDC (Election expenses)
£	74.00	Corse Lawn Hotel (Diamond Day planning meeting)

18. Financial Estimates 2011-12 and Budget 2012-13

In view of the lateness of the hour, it was agreed that the matter be deferred to the next Council meeting.

19. Future Meetings

It was resolved that future meetings of the Council take place at Eldersfield Lawn School at 7.30 pm on the following Thursdays in 2012:

12th January, 8th March, 10th May, 12th July, 13th September, 8th November

There being no further business, the meeting closed at 10.35 pm.

20. Correspondence

The following correspondence was noted:

Received:

- Rural Services Network
- MHDC: Annual report
- South Worcestershire Development Plan

21. Any other business

The Clerk was asked to write

- to Highways in respect of water collecting on the B4211 by the cricket pitch and south of Plough Farm, and that a copy be sent to the reeves;
- to MHDC to ask that grit be supplied for use during winter, Cllrs Davis and Williams being prepared to indicate where it should be delivered.

There being no other business, the meeting closed at 10.32 pm.