



HENSTRIDGE PARISH COUNCIL

Clerk: Ann Lee

Address: 3, Sparkford Road, Sparkford, Yeovil, Somerset, BA22 7FA

Tel: 07841392242 **Email:** Clerk@Henstridgeparishcouncil.org.uk

MINUTES

**An Extraordinary meeting of Henstridge Parish Council held at the Village Hall
(in the Hall, Ash Walk, Henstridge on 21 August 2024 at 6.00pm.**

All Councillors are summoned to attend.

The meeting commenced after there has been an opportunity for members of the electorate of the Parish to speak.

- 1. Open Session: The Chair welcomed residents and opened the public session at 6pm. Residents present all expressed an interest in the Appeal discussion. The Open session closed at 6.04pm.**
- 2. Present: Cllr Smith (Chair), Cllr Courtenay, Cllr Gaymer, Cllr Petheram, Cllr Howlett, Cllr Steel, Cllr Thompson, Cllr Coles, Cllr E Graham**
- 3. In attendance: Clerk, RFO, 7 residents**
- 4. Apologies for absence: Cllr J Graham, Mr John Smales PPC representative Cllr Nicola Clark, Cllr Rose, Cllr Finch**
- 5. Declarations of interest:** (Members are reminded of their obligation to declare any Pecuniary or Other interests they may have under the Localism Act 2011 and the Council's Code of Conduct). **None declared**
- 6. Welcome:** Cllrs Smith thanked those present for their attendance and explained that Cllrs had been called to vote on urgent planning matters relating to Land Os 5439 Part Townsend Green Henstridge, Templecombe, Somerset, BA8 0RG. Cllr Smith thanked Cllr Gaymer, Cllr Petheram and Cllr Courtenay for all their work to date and proceeded to ask them to lead the discussion and respective proposals.
- 7. Lawful Development Certificate 24/01183/COL, 21/03369/REM**

Cllr Gaymer updated those present referring to the article published in WOT's On. He referred to the document circulated with the agenda: **Henstridge SOCG v1.1 (003) (006).docx Henstridge CLUED [FootAnstey-DOCUMENTS.5001549.1]**.

He reported that although the legal opinion expressed by the PC's KC Council was strong and states the certificate of lawfulness should be refused, the Appeal status has now been trumped by the Lawful Development Certificate argument and therefore could allow developers to start building the 130-housing estate without redress. He noted that there had been no formal warning of this action and that Condition 10 iii had been independently discharged by Planning Officers from the Unitary Authority (Somerset Council) on the 2 August following an independent application that had not been circulated to the PC in the usual way. County Cllrs had not been involved in this decision and Officers of the Council had used their delegated authority to allow the application to be approved. He clarified that Henstridge Parish Council found out about this "deal" on 6th August. It seems that developers nationally can use this as a way to bypass decisions made by



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planning committees. He explained that Cllr Nicola Clark had explained in an email that whether the developers can lawfully implement the permission is a matter of interest as it is based upon the ability for works to be retrospectively approved by a subsequent decision of the planning authority that may allow this to take place legally.

The Council's constitution sets out the types of application that can be delegated to officers. The latter are usually identified as delegated decisions by reason of the technical rather than policy-based nature of the content. However, technical reasons from Highways Officers have not been detailed in a schematic publication.

Cllr Gaymer outlined costs incurred to date relating to the Certificate of Lawfulness case, explaining that the Kings Counsel (KC) fees totalled £7,000 (plus £1,400 VAT), which exceeded the solicitors initial estimate of £6,000 plus VAT.

Foot Anstey stated that costs had significantly exceeded their initial estimate of £3,000 (plus VAT), as a result of attending conference calls with Counsel, liaising with Counsel, reviewing drafts of their opinion and managing correspondence with Somerset Council. Discounting duplication, they were asking for an uplift of a further £2,000 and would be submitting an invoice totalling £3,500 plus VAT accordingly to cover the agreed fees and additional fees (this would be an overall total of £5,000 plus VAT for costs, which included the interim invoice of £1,500 raised, leaving a total of £3,500 plus VAT which could be paid in part by the £600 on account.

Cllr Gaymer recommended that the costs incurred to date should be paid from general reserves. Julie Furgerson verified that the sum budgeted (£9000 previously agreed had taken the PC general reserves down to £47k.

Cllr Courtenay explained that Somerset Council now have two opposing KC from either side (Developers and PC's) and the Officers are indicating that they may need a third KC on the Councils side to determine who is right. Cllrs resolved that any further expenditure for that purpose would need to be agreed by the PC at an additional meeting.

Cllr Courtenay made the following proposal: To agree to pay legal fees incurred to date and cap expenditure to a maximum up of £10k inclusive of VAT to Ansty Foot solicitors for legal advice and representation by Kings Council in response to the above application. This enables a buffer of £5k to accommodate any further legal advice costs. Cllr Gaymer emphasised that this proposed allocation of funds is purely for the purpose of refuting the Certificate of Lawfulness.

Rational: To ensure creditors were paid and to protect public safety on the high street in accordance with condition 10 in relation to the original application.



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Financial Implications: Cost of up to £10K capped inclusive of VAT to be funded from reserves providing invoices are respectfully submitted to the RFO.

Outcome: That Henstridge Parish Council has used appropriate legal advice on behalf of residents to defend its position and approves the allocation of up to a further £5k (total £10K inclusive of VAT) subject to an invoice, capped for this purpose and will be subject to a decision from this Council.

Risks: Cllrs notes that it is unclear even with an independent KC expressing their opinion, which KC will ultimately decide who is right; and if in fact the Officers will still make this decision independently.

Cllr Courtenay proposed that the PC limit expenditure subject to satisfactory invoices to a maximum of £10k for the Certificate of Lawfulness work.

Seconded by Cllr Petheram and unanimously carried.

Cllrs resolved to hold another extraordinary meeting if required.

Cllrs noted that in future they will ensure all legal advice costs will be capped.

8. To receive an overview of developments relating to the Appeal scheduled for the 8 October 2014 and Outline Statement of Case as Rule 6 interested party. Cllr Courtenay

APPEAL A – APP/E3335/W/24/3344573 (00650)

APPEAL B – APP/E3335/W/24/3344570 (00546)

APPEAL C – APP/E3335/W/24/3344574 (00651)

APPEAL D – APP/E3335/W/24/3344571 (00547)

APPEAL E – APP/E3335/W/24/3344572 (00548)

Cllr Courtenay outlined the current position explaining that a Common Ground statement had been agreed at the pre appeal meeting on the 29th of July with the exception of Condition 10 iii relating to pedestrian safety. However, later in the day the Officers invited Barrett's to apply to discharge Condition 10 iii. Barrett's consequently submitted their application and four days later the Officers discharged the condition. It is now likely that the Appeal will be withdrawn by Barrett's. This was intimated by the Appeal Inspector in the meeting. As a Rule 6 participant Cllr Courtenay had not been party to these discussions and had to formally request the Common Understanding document that Barretts and the Developers had agreed.

However, to date the Appeal has not been withdrawn and the Appeal Inspector's Officers have confirmed this. Disappointingly, the information provided by the PC KC provided legal arguments on condition 10 iii but was rejected by the Appeal inspector as it was wrapped up in the Certificate of Lawfulness opinion which was not considered relevant.

Cllrs have asked the Officers to account for their actions. John Hammond has responded indicating that this is within their delegated authority, but has



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not responded to concerns that he led the PC to believe, and encouraged the PC to seek legal advice that could be shared to bolster/ support the Unitary Authority.

The developers will withdraw their Appeal if they are satisfied that the discharge of condition 10iii is one they can rely on. Nevertheless, the PC has to prepare for the Appeal to go ahead on the 8th October. **Cllr Courtenay has now produced the final version of the case statement on behalf of the PC which Cllrs received in advance of the meeting. Cllr Smith proposed the statement. This was seconded by Cllr Gaymer and unanimously agreed.**

Cllr Gaymer outlined the letter he had written to County Cllrs expressing concern and seeking their advice. Cllrs resolved unanimously that the letter presented in advance of this meeting should be sent.

It was noted that the case planning officer for Townsend Green left employment within two weeks of the May decision to refuse permission. The senior planning officer on this case then left employment in June, leaving a fresh planning officer to make all the decisions that took place thereafter. Continuity came from paperwork only, not direct experience and knowledge over the last six years. The Somerset Council representative, the senior Build Environment Officer, attended the preliminary Appeal meeting 29/7/24 and announced that he would be redundant before the 10/10/24 Appeal hearing.

9. Proposal to engage KC opinion on Somerset Council's Officers discharge of the Condition 10 iii (application reference 24/01727/DOC1) to a maximum of £10K inclusive of VAT. Cllr Gaymer, Cllr Courtenay and Cllr Petheram.

Cllr Gaymer warned the Parish Council that the developers owned the site and would come back with another development proposal if the PC were successful in overturning the LPA decision.

Rational To agree to pay a maximum of £10k inclusive of VAT to Ansty Foot solicitors for legal advice and representation by Kings Council to challenge Officers misinterpretation of the legal meaning of "having regard to".

To protect public safety on the high street in accordance with condition 10iii in relation to the pedestrian safety.

Financial Implications: Cost of up to £10k inclusive of VAT to be funded from reserves.

Recommendation: That Council supports legal advice and approves the allocation for capped funds for this purpose.

Proposed by Cllr E Graham, seconded by Cllr Steel. Votes 7 in favour, 1 vote against, 1 Cllr unable to vote. Proposal carried.



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10. Proposal to write a letter of complaint outlining grievances to Somerset Council about the handling of this planning application since 2017 and submit a draft for approval at the PC meeting on the 3 September 2024. Cllr Petheram

Rational: To complain about procedural unfairness, highways performance, and transparency of discharge of condition 10 application. procedural irrationality and disregard by Officers of Somerset for pedestrian safety,

Financial Implications: None

Recommendation: The PC reviews the letter stating grievances at the PC meeting on the 3 September and sends to Somerset Council for resolution.

Proposed by Cllr Gaymer, seconded by Cllr Steel, unanimously agreed.

Meeting closed at 7.15pm

Date of next meeting – Tuesday 3 September 2024 at 7pm

Items for inclusion on the agenda and all items to be listed under issues arising from this meeting must be received by the Clerk by 9.00am on **22 August 2024.**

Ann Lee Parish Clerk 13/08/24