



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 at the Village Hall (in the Hall, Ash Walk, Henstridge 18 December 2024 at 7.00pm.

All Councillors are summoned to attend.

Council Matters for discussion Judicial Review

The meeting commenced after there has been an opportunity for members of the electorate of the Parish to speak. This was restricted to 3 minutes per individual.

The Open Session commenced at 7.00pm

Three items were discussed:

- a) Storm damage to the Village Hall canopy.** This will be subject to an insurance claim. Committee members are keen to replace the existing roof with a wooden construction. This will mean a material change to the building for approval at the next PC meeting on the 7 January 2025.
- b) Village Hall roof replacement** The Village Hall roof is now between 40 – 50 years old. A local roofer is going to provide a condition report. Request made to consider using s106 money if required to help fund this project. For discussion at the next PC meeting on the 7 January 2025.
- c) Judicial Review feedback** Henstridge will be forced to take 5% of all new homes for Somerset. The pathway across the site is locked breaching an Act that is a legal requirement. Lorries are already mounting corners and presents a high level of risk to life. Further concerns raised related to pedestrian safety, inappropriateness of alternative route, Independent means to support a claim for a Judicial Review from a local resident were offered and backed by other residents within the community. Concern that £40k has been allocated to the Golf Course several miles out of the Parish.

The open session closed at 7.12pm

Extraordinary Parish Council Meeting

Cllr Smith welcomed those present to the extraordinary Parish Council meeting

- 1. Present:** Cllr Veronia Smith, Cllr Ken Courtenay, Cllr Adrian Gaymer, Cllr Christine Steel, Cllr Barry Howlett, Cllr Andy Scard, Cllr Dennis Finch, Cllr Deborah Petheram, Cllr John Graham, Cllr Jane Rose
- 2. In attendance:** 6 residents of the Parish, Ann Lee Parish Clerk



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3. Apologies for absence: Cllr Peter Thompson, Cllr Nicola Clark, Cllr Hayward Burt

4. 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**

5. To NOTE the context Cllr Petheram: Cllr Smith thanked Cllr Gaymer, Cllr Courtenay and Cllr Petheram and members of the A357 team for all their extensive work relating to the Townsend development. Cllr Smith invited Petheram to respond to questions from the paper she had circulated previously that covered the following:

- a) **The purpose of a Judicial Review process,**
- b) **The grounds for a judicial review**
- c) **The reason why the PC consider the PC has a reason for legal redress**
- d) **The Review Process**
- e) **To understand the extent of costs**
- f) **Strategies to fund**

Cllrs reaffirmed that the claim for a Judicial review is a remedy of last resort as the PC now feel that they have exhausted all alternative avenues of challenge. Cllrs reconsidered the process and concluded that a request to review the lawfulness of decisions and omissions made by Officers at Somerset Council was worthy of review in the context of quashing the Certificate of Lawfulness and that public safety was of paramount importance.

The reasons why the PC consider the PC has grounds for legal redress were outlined and matched the criteria for successfully claiming a judicial review.

Nevertheless, concern was raised that the remedy may still not balance in the favour of public interest as even if the Certificate of Lawfulness is quashed a new application may be forthcoming, although they acknowledged that such an application would need to be significantly different and comply with safety (Condition 10 iii).

Cllrs debated the opinion of a KC's originally in June/July 2024 and now two junior barristers from the same chambers and based in London who stated that they were all confident that the PC has a good case of winning a Judicial Review. They recognise that the associated cost of running with the claim is significant even with court fee capping.



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Cllr Smith stated that before voting to determine if the PC should proceed further with a Judicial Review claim Cllrs needed all the financial facts set before them.

The Chair closed the PC meeting to enable a member of the public to speak at 7.22pm.

The Chair re-opened the PC meeting at 7.35pm and proceeded to invite Cllr Petheram to continue to detail quotes received from the solicitors and barristers that had been approached.

6. To RECEIVE the responses from several solicitors and chambers detailing their associated costs.

Cllr Petheram outlined the advice received from legal representatives in London stating both parties were that the CLUED could be overturned levels of confidence suggested greater than a 50 – 60 % success rate. She invited questions from the paper that detailed the costs. These costs were broken down into stages with a bail out point before the substantive hearing.

Cllr Petheram explained that the application costs include Solicitor Fees and Barristers Fees to write the statement of facts

She clarified that for completeness and transparency cost permission hearing costs (if required by Court) had been included into the costs as a written submission may be needed.

Finally, the costs for the substantive Hearing with legal representation in Court were outlined. The table below details all these costs:

Stages	Purpose	Barrister A Michael Feeney 3 years at Bar	Barrister B Charles Merrett 8 years at Bar
1 PRE-APPLICATION	Court fee	£154 £770	£154 £770
Statement of fact	Solicitor	£2,000	£2,000
	Barrister Legal representation	£2,500	£3,000
2. APPLICATION	Barrister Legal representation	£4,250	£5,000



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3. PERMISSION HEARING if required	Barrister	£4,000	£5,000
4.SUBSTANSIVE HEARING	Barrister	£8,700 Per day	£10,000 Per day
	Solicitor Ongoing liaison Court/other parties/Barristers	£10,000	£10,000
	Court Costs	£10,000	£10,000
Capped costs for defendant's costs if the PC lost the case or if the PC decided to abandon case	Provision to set aside under the reciprocal Aarhus cap).	£10,000	£10,000
Total Cost		£52,374	55,924

Cllrs noted that court proceedings may last for more than one day and that the solicitor costs had been extrapolated from Governmental indications and not from a quote received. Costs were detailed in full including provision to cap expenses.

Cllrs noted the PCs financial position. Cllrs noted that if judicial review proceedings are initiated by a parish council, the council is typically the named claimant and, as such, bears the primary responsibility for legal costs. This includes their own legal expenses and, if the case is unsuccessful, potentially the defendant's costs. Crowdfunding managed by an independent group can provide financial support to cover these expenses, BUT Cllrs were mindful that this does not transfer legal responsibility/liability. Cllrs were mindful that the reserves could not cover these costs.

Cllr Smith asked the PC to resolve if this PC agreed to proceed with the Judicial Review claim on the basis it would need to accept a potential liability of £56K which is substantially more than this PCs reserves.

Proposed by Cllr Steel, seconded by Cllr Graham.

All Cllrs voted against this motion and wanted recorded that this decision was with heavy hearts.

Cllr Gaymer thanked Cllr Petheram, Paul Dimishky and Ann Lee for all their work in this later stage of proceedings. All other matters on the agenda were subsequently irrelevant and withdrawn.

Date of next meeting – Tuesday 7 January 2025 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 **27 December 2024.**

SIGNED DATED



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Ann Lee **Parish Clerk 13.12.24**