

BETLEY, BALTERLEY & WRINEHILL PARISH COUNCIL

Minutes of the meeting held on 22nd November 2012

PRESENT:

Cllrs Robert Bettley-Smith, Steven Ball, Mandy Berrisford, Karen Burton (from min.327), Dave Hales (from min.327), Seb Daly, Richard Head, Jo Thomas and Chris Watkin.

IN ATTENDANCE:

Gwyn Griffiths (Clerk)
Three members of the public

324/12 Apologies for absence were received and accepted as valid reasons for absence under Section 85 of the Local Government Act 1972 from Cllrs Harrison (work), Kerr (family), and Speed (work).

Apologies for absence were also received from County Cllr Chapman and Borough Cllrs Becket and Wemyss.

325/12 Members considered the declaration of interests in agenda items. Cllr Daly declared a prejudicial interest in Agenda Item 20b, as he was an officer of the Show Committee, which had submitted an application under the Community Chest scheme. Cllrs Ball and Head declared personal interests in the same matter as Show committee members. Cllr Head also declared a personal interest in Items relating to the Village Hall, as Chairman of the Village Hall Committee. Cllr Hales declared a personal interest in the planning item relating to Buddleigh Farm, as his wife was a work colleague of the applicant's wife.

326/12 **RESOLVED** that, subject to the amendment of the list of those in attendance (by deleting the names of County Cllr Chapman and Borough Cllr Becket, and the reference to members of the public being present) and the amendment of 'wide' to 'wife' in minute 302/12, the minutes of the meeting of 25th October 2012 be approved as a true record and be signed by the Chairman.

[Cllr Burton joined the meeting at this point]

327/12 The meeting was adjourned to allow public participation.

A member of the public wished to comment on application 12/00690/PLD for a Certificate of Lawful Development (CLD) for proposed use as a wedding venue, land adjoining Buddleigh Farm, Balterley.

[Cllr Hales joined the meeting at this point]

When Newcastle Borough Council, as the Local Planning Authority (LPA), had rejected the previous application he had been concerned at the narrow grounds for refusal (total days and lack of traffic marshalling), which could be easily addressed, and had felt that a fresh application would follow. This had now proved to be the case and he was disappointed at the LPA's failure to address the full range of concerns identified by local residents and the Parish Council.

He identified some of the important issues which the LPA had failed to address, including the division of a single planning unit, the potential safety hazard at the entrance from the A531, existing changes to the structure and use of buildings at Buddleigh Farm, the impracticality of

the claimed planning entity operating as a wedding venue without linkage to the existing buildings, the disparities between the application and information on the applicant's website. It appeared that legal advice provided to the LPA had been placed on the website and subsequently removed.

328/12 The Chairman reported on activities undertaken since the last meeting. He was pleased to record that six bags of winter salt (provided by the Parish Council) had been placed in the new bin at the Village Hall, and that the Village Hall Committee had expressed appreciation. The wiring loom for the Christmas lights had been sent off for repair, and had been safely returned. He had missed the last meeting of the Rural Transport Scheme. On behalf of the community he had laid a wreath on 11th November, Remembrance Sunday and Armistice Day.

329/12 The Clerk advised members that as a result of the Localism Act 2011 a potential difficulty had arisen relating to dispensations from the Code of Conduct in respect of such matters as the setting of the precept and civic allowances/honours which had previously been covered by a standard dispensation. A form of words which would address the difficulty had been identified.

RESOLVED that the Council adopts the following policy on dispensations under Section 33 of the Localism Act 2011:

a) That on application from members a general dispensation be granted to allow members to participate and vote in any discussion related to any business related to the Council's budget, precept or Council Tax, or Special Expenses (under the Local Government Finance Act 1992); related to allowances, payments or indemnities given to members; to any ceremonial honours given to members; or to any matter where the member's interest is one shared by the majority of residents of the Council's area.

b) That such a dispensation shall be for a period of four years from the date of granting the dispensation.

330/12 Borough Cllr Becket presented his report, which included the following matters:

Buddleigh Farm. Members were updated on the current position and the possibility of enforcement action.

331/12 Cllr Head advised members that the proposed works to the Village Hall might be underway by the date of the January meeting.

332/12 The Clerk reported that the following matter had been dealt with under Urgent Business procedures since the last meeting:

Planning application 12/00633 Replacement porch, Rosebank, New Road, Wrinehill. The application had been reviewed by members, and no objection had been raised.

RESOLVED that the actions undertaken be endorsed.

333/12 The Clerk reported the following planning determinations received since the date of the last meeting:

12/00550 Nelson House (extension) – PERMITTED

12/00599 Brookside Farm (agricultural building) - PERMITTED

334/12 Members considered application 12/00690 relating to an application for a Lawful Development Certificate for a proposed use as a wedding venue, Buddleigh Farm, Betley.

RESOLVED a) that the Parish Council is most concerned that the Local Planning Authority's treatment of the previous application on this site, and its failure to address

some of the valid objections lodged, could leave it at risk of complaints of maladministration from local residents adversely affected by such a use.

The Parish Council is aware that the legal background to the consideration of such matters has been set out in a letter to the Local Planning Authority from Professor Martin Wasik (20th November 2012), and the Parish Council endorses the views set out by Professor Wasik that the legal basis of the Local Planning Authority's response to the previous application may be unsound.

b) that the Parish Council restates its previous position and does not believe that the application meets the necessary requirements for a Certificate of Lawful Development on the following grounds:

1. Curtilage. The proposal would not fall within permitted development if it lies within the curtilage of a building. The Parish Council would contend that the proposed use (the erection of a marquee for use as a wedding venue) clearly falls within the curtilage of the adjoining buildings (Buddleigh Farm and its associated buildings, including that known as Hunter's Tryst) on the following grounds:

a) that the proposed use is not practical unless linked to the buildings at Buddleigh Farm, for the provision of toilet, changing and other facilities, and the preparation and storage of food etc, and as a venue for civil ceremonies (which cannot be conducted within a temporary structure);

b) the commercial advertising already carried out by the applicant – and visible at www.malibumarquees.co.uk - clearly advertises the use of facilities within the Buddleigh Farm buildings, including accommodation at Hunter's Tryst and photographic opportunities within the residential curtilage, as part of the package which also includes the marquee on the application site.

On these grounds the Parish Council would contend that as the independent use of the field as a wedding venue would be impractical without access to the facilities at Buddleigh Farm (including Hunter's Tryst) then the whole site on which activities would take place would represent a single site, and single curtilage for planning purposes.

Since consideration of 12/00545 the Parish Council has had sight of photographic evidence that the hedgerows/ fencing which formerly separated the Buddleigh Farm buildings from the fields which are the subject of 12/00690 have been removed, further undermining the applicant's case that the area marked in red on the site plan of 12/00690 is separate from the curtilage of the Buddleigh Farm buildings. Site inspection shows that there is no more separation between Buddleigh Farm and the fields forming the application site than between the paved and lawned areas of any typical residential property. In light of this the Parish Council is strongly of the view that the application site clearly falls within the curtilage of Buddleigh Farm and its buildings and therefore cannot benefit from the lawful development status sought.

2. Access. Article 3(6) of the GPDO states that the permitted development sought by the applicant cannot apply where the use would require or involve "the formation, laying out or material widening of a means of access to an existing highway which is a trunk road or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons". The applicant stated (in paragraph 4.05 of the Supporting Statement submitted, as part of the previous application, by John Rose Associates) that the Highway Authority had recommended works (widened access, surfacing of part of the access within the field and a visibility splay) which clearly place the proposal outside permitted development. In its response to this new application (690) the Highways Authority has indicated that it would

not object to the use on highways grounds subject to certain works being carried out, and marshalling (by persons unidentified, but wearing high-visibility clothing) being provided. These requirements by the Highways Authority clearly indicate that it is concerned that use of the gateway for event traffic could constitute a highways hazard. The Parish Council does not believe a condition to ensure marshalling can be imposed, or enforced if imposed as a condition. The application further fails to identify who would be responsible for the provision of marshals, nor what training such marshals should receive. It is also unclear when such marshalling would be in place. If the Local Planning Authority is of the view that the use could be permitted only subject to the highways requirements set out by the Highways Authority this can only properly be achieved through a full planning application, which would allow the Local Planning Authority to reach a view, and attach any appropriate conditions (e.g. on the details of marshalling) in response to the comments of the Highway Authority.

Even with marshalling, conflicting movements at the gateway, together with potential congestion caused by poor surface conditions within the site, would lead to stationary vehicles queueing on the A531 close to hazardous bends, at a location where double white lines in the centre of the road emphasise the need for caution.

3. Accuracy and consistency of application. There are a number of anomalies between the application itself and the applicant's advertising, such as the sizes and capacities of the marquees to be provided. This has a consequential effect on the potential implications for car parking, access arrangements etc. A number of basic elements essential to such use are not referred to at all in the application, such as facilities for toilets, changing, food preparation and storage, lighting, music and/or public address.

As a Local Planning Authority you will be aware that the relevant legislation requires that applications for Certificates of Lawful Development "must precisely describe what is being applied for ... [with] precise details of what use, operations or failure to comply with a condition are found to be lawful, why and when" [paras. 8.11 & 8.16 of Annexe 8 of the 1990 TCPA]. The Parish Council is of the view that the application, in view of the vagueness regarding size and capacity of marquees, provision of essential services and facilities, times of operation, and potential for 'bad neighbour' activities such as music and fireworks, clearly fails to meet the requirements of paras 8.11 & 8.16. Indeed, there is a clear inconsistency between the description of 12/00690 (which refers to "a marquee"), and the supporting documentation, which refers to a second marquee (for catering use).

As a Local Planning Authority you will also be fully aware of the severe penalties contained within the relevant legislation where applicants provide inaccurate or misleading information in pursuit of a Certificate of Lawful Development. The Parish Council asks that you ensure that you are in possession of full and accurate details of all elements related to the proposed use before consideration, and that in its absence you must refuse the application.

4. Conditions. In considering development, or change of use, on any site the Local Planning Authority will wish to consider whether there are elements within the proposed use which require control by the imposition of conditions (e.g. times/days of operation, areas of use etc). The Parish Council understands that conditions cannot be attached to a Certificate of Lawful Development, and feels that this would be totally unacceptable for this proposed use in such a sensitive semi-rural location.

5. Existing development in area. The Parish Council has already drawn to the attention of the Local Planning Authority that it has been informed that significant

development has already occurred at Buddleigh Farm (as advertised on the website referred to above), and this may not enjoy the benefit of appropriate planning permission. The Local Planning Authority is asked to ensure that all existing development has the benefit of planning permission. The Parish Council feels this should be addressed as a matter of urgency, and should be investigated before any decision on the potential use of the site which is the subject of 12/00690.

Betley, Balterley & Wrinehill Parish Council therefore urges the Local Planning authority to reject the application for a Certificate of Lawful Development on the following grounds:

a) the use is only viable if integrally linked to the existing buildings at Buddleigh Farm, and therefore falls within its curtilage, and would fail the test set out by the TCP(GPD)O 1995;

b) the removal of the boundary between the Buddleigh Farm buildings and the application site clearly indicates the incorporation of the application site within the curtilaged of Buddleigh Farm;

c) the advice of the Highway Authority is that the use would require works at the entrance to the A531 and within the field, and marshalling at the entrance gateway, which would place it outside the requirements of Article 3(6) of the GPDO;

d) the discrepancies between the application and the website offering services at Buddleigh Farm are such that the application fails to meet the test set by Annexe 8 of the 1990 TCPA.

The Parish Council is also strongly of the view that the significance of the development, and its potential impact on Green Belt policies, residential amenity and highway safety demand that it should be subject to the full rigour of the normal planning procedure

335/12 The Clerk reported that no response had been received from the Borough Council regarding possible action under planning legislation to secure repairs to the collapsed wall in Betley.

336/12 Members considered arrangements for the illumination of the Christmas Tree on the Memorial Garden. It was noted that Cllrs Berrisford & Thomas would arrange the packs of sweets to be provided on the night, that the lights would be installed on Sunday 25th November, and that the Village Hall would be hosting an event after the switching-on of the lights.

337/12 Members considered initiatives being undertaken or considered by the Parish Council.

338/12 Clearance of pavements. It was noted that work had been satisfactorily undertaken by the Council's contractor between Doddlespool and Balterley. Around £350 remained in the budget.

RESOLVED that the Clerk be authorised to commission further work to cut back vegetation encroaching onto the pavement between the Broughton Arms and Post Office Lane and (if affordable) between Post Office Lane and Balterley Church, subject to a maximum budget of £500, to be funded from the SCC Highways provision and Parish Council balances.

339/12 Bus facilities, Main Road/East Lawns. The Clerk advised members of the response from residents regarding the proposed Crewe-bound shelter. Consideration was also given to options to improve sightlines at the Newcastle-bound stop, including the possibility of moving

the shelter a few yards in the Newcastle direction. It was agreed that further comments be invited on the possibility of a Crewe-bound shelter.

340/12 Gritting. All bins had been checked and were fully stocked.

341/12 Millennium Trees. The Village Hall had accepted the invitation to accept the millennium trees and had expressed their appreciation.

342/12 Cllr Burton reported that she had spoken with the County Council representative regarding the Community Paths Initiative, and the Clerk advised that funding had now been paid in to the Parish account.

343/12 Members discussed the Community Speed Watch Scheme. A number of further volunteers had been identified, and it was felt that a sufficient number might be identified to allow the scheme to progress in 2013. It was agreed that a poster inviting further interest should be placed on the parish noticeboards.

344/12 In view of uncertainty regarding the date by which the Borough Council as precepting authority would require details of the Parish precept for 2013/14 the Clerk suggested members might wish to consider its budget and precept for 2013/14. Members considered a paper prepared by the Clerk setting out a draft budget and options for the precept. The matter was complicated by uncertainty regarding changes to Council Tax Benefit support and the Tax Base.

RESOLVED a) that the Budget as set out in the Clerk's paper be approved;
b) that a provisional precept figure of £10,130 be set, subject to paragraph c) below;
c) that the aim of the Parish Council be to return the Parish Council's Council Tax payment [in cash terms] be returned to the level of 2011-12;
d) that in advising the precepting authority of its precept requirement the Parish Council would seek to require a figure which would return the typical Band D precept to the level of 2011-12 if possible, but no lower, with any resulting shortfall against the figures identified in the Budget being funded from the Parish Council's balances up to a figure of £500;
e) that the Clerk be granted delegated powers to carry out any actions necessary to effect the above resolution.

345/12 Members were invited to consider participation in the Staffordshire Best Kept Village Competition.

RESOLVED that participation be considered at the next scheduled meeting.

346/12 Members considered area issues raised by members.

RESOLVED a) that various highway issues (overgrown hedge, Church Lane; the failure to reinstate the crossing patrol warning lights) be reported to the County Council;
b) it was noted that the Betley telephone kiosk had been reinstated to use;
c) that a request to provide a bus shelter in Wrinehill be considered at the next scheduled meeting.

347/12 Members reported on the outcome of the parish walks which had been carried out. The Clerk would forward the reports to the appropriate authorities.

348/12 The Clerk tabled correspondence received since the last meeting. There were no matters requiring decision.

349/12 The Clerk submitted to members a list of invoices to hand and payments due, and the Financial and Bank Statements to date.

350/12 The Clerk advised that an application for consideration under the Borough Council's Community Chest scheme had been received from the Betley & District Horticultural Society seeking funding to renew on and off-site signage and to refresh their website.

RESOLVED that the application be approved, and the Borough Council be recommended to make a grant of £400.

[Cllr Daly declared a prejudicial interest in the above matter as an Officer of the Horticultural Society, and withdrew from the meeting during its consideration]

351/12 **RESOLVED** a) that the Council authorises payment of the following:

DT Askey	meml garden maintenance	£135.00	1068
G Griffiths	salary & expenses	£412.02	1069
Betley Senr Citizens	donation (Christmas Lunch)	£200.00	1070
Severn Trent Water	water supply (Meml Gdn)	£14.87	1071
BC Heywood	repairs to noticeboards	£675.00	1072
TW Heler & Sons	pavement maintenance	£996.00	1073
DT Askey	meml garden maintenance	£100.00	1074
G Griffiths	salary & expenses	£406.60	1075
Mh-p internet	website	£ 18.00	1076
Royal British Legion	donation (wreath)	£ 18.50	1077

b) that the Financial Statement be received;

c) that the Bank Statements be noted, and the reconciliation verified and be signed by the Chairman.

352/12 Members of the Laudy Croft Working Group advised that no maintenance work was currently required.

353/12 Members considered Council communication, and matters to be included in the next issue of the Parish Magazine.

354/12 Date of next meeting: Thursday 24th January 2013.

355/12 **RESOLVED that the press and public be excluded during consideration of the following item under the provisions of the Public Bodies (Admission to Meetings) Act 1960 and Section 100A (Schedule 12A Part I) of the Local Government Act 1972 in that it relates to potential contractual arrangements for the supply of goods and services, and/or potential legal proceedings by or against the authority, and that it is considered to be in the public interest to exclude.**

356/12 The Clerk advised that no further communication had been received from the Borough Council regarding land at Laudy Croft.