

Draft Minutes of a Meeting of Teffont Parish Council held on 1st November 2019 in the Village Hall.

Present: Cllrs Aspden, Blamey, Cordle, Deane, Wood and Worth

In attendance: Cllr Wayman, Parish Clerk, 10 members of the public.

Apologies: Cllr Fisher

Questions from any members of the public present

Cllr Wood reminded members of the public present that the meeting is public meeting of the Parish Council, and not a Public Meeting. He therefore reminded the public that their contributions would be welcomed at the start of the meeting but that once the meeting had started he would neither ask for nor accept any input from the floor.

A question was asked about pre building consents for materials to be used at Sunrise and whether TPC had any say on this matter. The Clerk stated that although the consents are listed on WC planning site they cannot be viewed and will not be passed to TPC for comment.

The subject of parking in the village was raised and the PC was asked what they planned to do about the problem that was likely to be caused by the Sunrise development. Cllr Wood confirmed that the PC is considering these matters.

A member of the public asked if TPC would be seeking a judicial review of the Planning Officers' decision. Cllr Wood stated that that would be discussed in the meeting.

Cllr Wood invited Cllr Wayman to make any comments. She apologized for not calling in the application on time. Cllr Wood accepted her apology. Cllr Deane spoke in her defence stating that Wiltshire Council (WC) Planning Officers knew the application was controversial, knew that it had been called in at its first iteration and it should automatically have put it forward to be discussed at the full Southern Area Planning Committee.

There being no further questions or statement from the public, Cllr Wood opened the meeting at 18:30.

- 1. To receive and accept apologies** Cllr Fisher was unable to attend.
- 2. Exclusion of the press and public** None required.
- 3. Declarations of interest** None
- 4. Sunrise – To discuss the recent WC Planning Officers' decision to approve the Sunrise planning application.**

Cllr Wood started by reminding Cllrs that the purpose of this meeting was not to revisit the arguments in relation to the Sunrise application. These had been considered by both TPC and the Planning Officers and were supposed to be considered by the Southern Area Planning Committee since the application was to be 'called-in' by Mrs Wayman. However the decision to approve had been made by

Planning Officers using their delegated powers and ignoring the call-in of which they were well aware, thereby on the face of it acting in breach of the correct process. He reminded councillors that they should be considering whether or not the Process has been correctly followed, not the rights and wrongs of the decision itself. Furthermore, any challenge in relation to process should be directed at WC and not at the applicants.

In preliminary correspondence TPC had been informed that, once granted, planning consent could not be simply revoked by executive action within the Planning Department. However, Cllr Wood stated that there may still be options open to TPC by which to highlight flaws in the procedures that were followed and, if found to be faulty, then to persuade Wiltshire Council to re-run the process properly. He stressed that the purpose of this meeting was therefore to scope out what those options might be, what the pros and cons of each might be, and then to decide whether to pursue any or all of them.

He asked if there were any dissenters from this summary of the situation. There were not.

He then suggested that in his view there were three outline potential courses of action to discuss, none of which were mutually exclusive.

1. To seek a judicial review of the process followed by the Planning Officers in order to ascertain whether or not the process had been properly followed and therefore whether or not the decision reached was soundly based.
2. To encourage villagers to comment in writing to WC expressing their concerns and highlighting the strength of feeling in the community.
3. To ensure that the Press was in possession of the facts so that the community's position should be clearly communicated.

Action 1.

Cllr Wood invited Cllr Aspen to explain what a Judicial Review (JR) was and how it would be implemented.

Cllr Aspden began by explaining this was not his area of expertise and he was not in a position to give legal advice to TPC. He could describe the process and outline how it might, in theory, be used here but that would not be a substitute for the TPC taking legal advice at the appropriate times. The Chairman noted that and councillors accepted that caveat.

Cllr Aspden explained that a JR is about ensuring proper processes have been followed by public bodies. It is not a question of whether we think the decision reached is right or wrong; rather, it is a matter of making sure that decision was reached in the right way. Decisions by public bodies can be reviewed on various grounds. Here, the most likely complaint would be that the required consultation processes have not been followed. In this case, he suggested, the apparent procedural flaw was the failure to call in the application before the deadline. Whether that failure means that the overall process was flawed, as it meant that part of the consultation process did not happen as it should have done, and if so whether TPC are entitled to complain about that would be the two main questions. He suggested that the most likely outcome of a successful JR should be that the decision would be quashed by order of a judge and that Wiltshire Council would then be ordered to re-run the application process. He reminded councillors that there can be no guarantee of the outcome of a JR, nor that a re-run process would necessarily come to a different decision.

He suggested that the first stage of the process should be to formally write to WC to put them on notice that TPC is considering applying for a JR and to request that WC avoid the expense and additional work implicit in responding to a JR by reviewing the process internally. If, as a result of that internal review, WC came to their own view that the process had not been followed properly then they ought to re-run it.

He thought it likely that once WC realized that TPC are serious, then they would be likely to review the matter internally prior to exposing themselves to the risks of a formal JR.

If however WC refused to carry out an internal review then the next steps would be to seek permission to issue, and then to issue, formal court proceedings. He stated that there is a time constraint: the process must have started within 3 months of the planning decision being made. (Decision made on 25th September 2019 meaning that an application for JR must be made by 25th December 2019.) The process will require TPC to seek professional advice which could be costly.

However Cllr Aspden suggested that the first step of writing to WC would not be expensive. If this does not resolve the issue then he urged taking specialized legal advice before taking things further.

Cllr Wood thanked Cllr Aspden for his advice.

In discussion Cllr Aspden also pointed out that, whether it succeeded or not, a useful outcome of this process would be to ensure any departure by Planning Officers from due process is less likely to happen again.

In answer to a question Cllr Aspden said that a JR could potentially take months and that he was unsure if building work on site would be stopped until a decision was made. TPC would want to take advice on that sort of detail.

Cllr Wood asked Cllrs for their views.

There was general agreement that a letter to WC should be written. Cllr Aspden advised TPC to take legal advice on the wording of the letter and that a solicitor's letter would hold more weight than a letter from TPC. Costs, he thought, would be at least £500 for the initial letter. Thereafter costs could run into thousands of pounds paying court costs, barrister costs, preparing papers. In the event of a successful JR then some or all of TPC's costs might be recovered from WC, but the converse was also true, if the JR failed. Councillors should therefore be mindful of the financial risks.

Cllr Worth questioned whether spending public money on this was justified. Cllrs agreed that funding the initial letter, costing no more than £500, was justified. They agreed to do so.

Cllr Deane reminded Cllrs that at the planning meeting when this Sunrise application was discussed the applicants' representative had stated and had confirmed in response to a question that he had had assurances from the Planning Officers that the application would be approved regardless of any response from TPC. Cllr Aspden confirmed that, if this was true and there had been a predetermination of this application by the Planning Officers, that would be a serious procedural flaw.

Action 2.

Cllr Wood reminded councillors that public bodies are very sensitive to public lobbying. He reminded councillors of the very successful campaign waged against SSE a few years ago that resulted in SSE removing an unsightly sub-station in the village. He suggested therefore that if sufficient members of the public complained to WC about this issue then this might help persuade WC to look again at the process used on this occasion.

He asked Cllrs if they were happy for villagers to be guided with the facts and encouraged to write to WC.

Councillors agreed that this would be reasonable and that in any case it would be helpful for the TPC to write a summary of the situation to villagers so that they could make up their own mind.

Cllr Wood agreed to liaise with Cllr Aspden in writing a letter to be published on Town Crier advising villagers of the situation and setting out the facts so that villagers can then individually choose to write to WC if they so wish.

Action 3.

Contact the Press.

Cllr Deane and Cllr Cordle pointed out that the disruption to the B3089 caused by the building work meant that the issue was one of relevance to communities further afield than Teffont.

With this in mind Cllr Wood suggested that press interest was likely and that a spokesperson would be required to handle the Press in due course since it would be important to maintain a coherent and fact-based line from TPC. However Cllrs decided not to appoint anybody at this stage.

Other comments.

Cllr Deane suggested that any costs involved should not be paid by TPC and that TPC should ask WC to fund the costs.

Cllr Blamey asked about the impact that this could have on the relationship between TPC and WC. The other councillors took the view that since WC had appeared to take little or no notice of TPC comments anyway there was no beneficial relationship to damage and little to be lost by taking a stand on this very important issue.

It was also suggested that some villagers might be prepared to co-fund any legal challenge to the decision.

- 5. Date of next meeting:** The next meeting will be 12 November 2019 in Teffont Village Hall.

DRAFT

Cllr Wood closed the meeting at 19.16