

**MINUTES OF MEETING OF
THE RECREATION/ENVIRONMENT COMMITTEE
held on Monday 10 December 2018 at 19:00
at The Loft, Dersingham Village Centre**

Present : Cllr B Anderson, Cllr C Shepherd, Cllr B Hopkins & Cllr J Houston

In Attendance The Clerk, Cllr R Frost & Cllr M Noble.

68 Apologies

It was resolved to accept apologies from Cllr V Brundle.

69 Declarations of Interest

None received.

- 70 Minutes of the Recreation & Environment Committee Meeting held on the 19 November 2018. It was resolved for the minutes to be signed by the Chair as a true record after the following amendment.** Addition to Agenda item 58. Cllr Houston said the proposed skatepark might be illegal as the Recreation Ground was registered as a Village Green. Cllr Shepherd offered to investigate the issue and report back at a future meeting.

Cllr Anderson then took the report:

DERSINGHAM RECREATION GROUND, HUNSTANTON ROAD, DERSINGHAM - RECREATION GROUND OR VILLAGE GREEN?

RECREATION GROUND

The land at the corner of Hunstanton Road and Station Road was once part of the common. In 1859 under an Act of Parliament (Inclosure Act 1859) the land was taken out of the common and allotted as a "place of exercise and recreation for the people of Dersingham". The land was maintained by the Dersingham United Charities and known as the Recreation Ground. It appears that the land was rented out for pasture and looked little different from the common. By the beginning of the 20th century it had been fenced and gated.

In 1919 a village war memorial was proposed and the Dersingham United Charities were asked if they would maintain a memorial if it were to be erected on the recreation ground. This was considered to be outside their remit and they "approved a portion or all of the recreation ground being transferred to the Parish Council providing the latter assumes liability for upkeep of the memorial"

The land was transferred to the Parish Council and the Dersingham Recreation Ground Charity was set up in 1920. It was required that "the Recreation Ground shall continue to be used as a place for exercise and recreation by the inhabitants of the Parish of Dersingham." The Parish Council were to permit part of the Recreation Ground not exceeding 200 square yards to be adapted as a site for a war memorial. The Parish Council could let allotments and pasturage. Any income from these

activities was to be used to maintain the Recreation Ground and provide seats and benches.

The Dersingham Recreation Ground Charity still exists and accounts are submitted annually by the clerk.

VILLAGE GREEN

Under the Commons Registration Act 1965 Dersingham Recreation Ground was registered as a Village Green (Land Section of Register Unit No.VG51 in the Register of Town or Village Greens maintained by Norfolk County Council – NCC maintained the register and not the land).

The legislation protecting Village Greens is covered within 2 statutes:

Inclosure Act 1857 section 2 makes it a criminal offence to

- Willfully cause injury or damage to any fence on a green
- Willfully take any cattle or other animals onto a green without lawful authority
- Willfully lay any manure, soil, ashes, rubbish or other material on a green
- Undertake any act which causes injury to the green (e.g. digging turf)
- Undertake any act which interrupts the use or enjoyment of a green as a place of exercise and recreation (e.g. fencing a green so as to prevent access)

Commons Act 1876 section 29 makes it a public nuisance to:

- Encroach on a green (e.g. extending a property boundary onto a green)
- Inclose a green (i.e. fencing it in, whether or not to exclude public access)
- Erect any structure other than for purpose of better enjoyment of the green
- Disturb, occupy or interfere with the soil of the green other than for the purpose of the better enjoyment of the green.

Government advice is, in considering whether any development or action contravenes either or both of the above statutes a court is likely to be concerned with whether material harm has been caused to a green and whether there has been interference with the public's recreational enjoyment. Other issues that might be relevant include the proportion of a green affected by the development or activity and the duration of the interference.

Prosecution of offences can be instigated by the owner of the green, any inhabitant of the parish or the parish council. (My underlining as we are the parish council and land owners).

The right to enjoy lawful sports and pastimes on a green does not extend to the public at large but is only exercisable by inhabitants of the locality in which the green is situated. The courts have held that that the term locality includes a legally recognized unit of land such as a parish.

As there is a right to enjoy lawful sports and pastimes, this right can be exercised free of charge. Users could be asked for a donation but there is no obligation to pay. This would also apply to requests for payment to enter an organized event. A local

inhabitant cannot be required to pay a fee to exercise a right. Whilst this right only extends to inhabitants of the locality there are considerable practical difficulties in distinguishing local inhabitants from the general public.

Local inhabitants have a right to take part in any lawful sport or pastime. This is not restricted to those activities enjoyed during the period of use which led to the green being registered. Ultimately it is for the courts to decide whether or not an activity is lawful – where an activity is so inappropriate for an area that it is deemed to be a public nuisance (1876 Act) it is unlikely to be treated as lawful. It is a criminal offence to undertake any works on a green which contravene the 1857 Act and works in breach of the 1876 Act will be deemed to be a public nuisance. Permission cannot be given for illegal works to be undertaken on a village green.

RECREATION GROUND OR VILLAGE GREEN?

Simply it is both - the land has been known as the Recreation Ground for over 150 years but has the status of a Village Green. The use, titles and definitions do not conflict.

SKATEPARK

Can we build a skatepark on the Recreation Ground (Village Green)?

The protected status does not prevent lawful sports or pastimes and the activity would be recreational enjoyment. It is also consistent with the use of the land as place of exercise and recreation for the people of Dersingham (Recreation Ground).

The status as a Village Green and the definition of the Recreation Ground refer to the use by local inhabitants, i.e. residents of the parish. The aim is to build a facility principally for young inhabitants of the parish but we should recognize that we could not prevent its use by “outsiders”.

Would the construction represent a material harm that interferes with inhabitants recreational enjoyment? This would depend on the proportion of the Recreation Ground to be occupied by the skatepark and the resulting effect on any other lawful sports or pastimes on the remaining area.

Depending on size planning permission may be required. The appearance of the skatepark and its impact on nearby properties from noise and disturbance would need to be considered. We need to have some designs drawn up and costed. The availability of grants should be investigated, Further consultation will be needed. The project would need to be carefully financially managed to prevent overspending.

From the brief resume above it seems that a skatepark on the recreation ground/village green does not conflict with the general terms of the legislation. However, there is a large amount of case law and all aspects seem to have been challenged at some stage. Legal challenges can be costly, therefore, before we proceed a legal opinion from a specialist in village greens may be prudent.

Cllr Anderson thanked Cllr Shepherd for all the work she has achieved in putting this report together. Cllr Anderson said that the Law is very contradictory and is open to mixed interpretation.

71 Terms of Reference

Cllr Anderson advised that he had sent round prior to the meeting the following Terms Of Reference:

TERMS OF REFERENCE AND DELEGATED POWERS - ENVIRONMENT AND RECREATION COMMITTEE

Under the Local Government Act 1792 section 101 the Council has agreed to discharge the following functions to the Environment and Recreation Committee:

The Committee is responsible for public rights of way; street furniture; the cleaning contract; dog bins; grass cutting; litter; general maintenance; street lighting; the War Memorial and gardens; children's play equipment; safety surfaces; the skateboard park; the promotion of better facilities for young people in the Parish and the general village environment. It is also responsible for the budget and management of the Warren according to the conditions attached to the reserved funding.

The Committee may spend on its activities within the budget agreed by the Council. However, where a decision might be expected to have an impact on individual parishioners, the Committee will make reasonable efforts to consult those who could be affected and report these consultations and its proposals to the full Council for final decision.

The Committee is authorised to co-opt up to two non-Councillors if it believes they can add necessary expertise.

At its first meeting after the Parish Council's Annual Meeting the Committee will fix a programme of meetings for the rest of the financial year, taking the advice of the Clerk to avoid workload clashes with other scheduled meetings.

The Committee will prepare a draft budget for the following financial year and submit this to the Finance, General Purposes and Administration Committee by the end of November each year.

The Committee will monitor expenditure and income to ensure that it's budgets and are not exceeded. The Committee will not make any virements between expenditure budgets without the approval of the Council.

The services must be delivered in a way that is consistent with the Council's Financial Regulations.

It was resolved for this to become the Terms of Reference for the Recreation & Environment Committee.

72 Rangers

Cllr Anderson advised that the fallen leaves have not been addressed. **It was resolved for the Clerk to report again.**

73 Current Financial Position

The Clerk handed round a budget sheet. Please see attached. Currently all spending needs to go through Full Council.

74. Setting the Precept

a. Grasscutting Contract.

Cllr Anderson asked where Cllr M Shepherd was in the process of getting the correct maps. Cllr C Shepherd advised that Cllr M Shepherd had borrowed the

Parish Projector and had managed to persuade Parish On-Line to upload the overlays from the Borough and County Councils so was now in the position of being able to present to the committee. Cllr C Shepherd advised that a meeting early in January for the presentation was needed. **It was resolved for a date to be set.**

b. Budget Setting

The Clerk advised that the figures from the last meeting regarding the Precept had all been achieved apart from the War Memorial Area and recent correspondence regarding bus stops. The Clerk advised that Cllr Brundle and Cllr Houston had asked that the sleepers in the War Memorial area to be replaced. Cllr Houston advised that if one section is achieved this year and one the next and advised that around the children's bed was more urgent. **It was resolved for Cllr Houston to advise how many sleepers were needed to be replaced in this area and inform the Clerk who was to obtain quotes to replace them in traditional old sleepers.**

The Clerk advised that for sometime there has been talk with County regarding putting in the provision of bus stops to service the Doctors and the Dersingham Centre once built. The Clerk advised that Ms Bettinson Highway Engineer had worked on the location and has come up with locations according to Cty Cllr Dark. Cllr Dark has agreed to pay for one of the stops if the Parish Council would pay for the other one at a cost of £2,500. After discussion **It was resolved to recommend to Full Council that the money be put into the Budget for 19/20 and the Clerk to update the precept request.**

75 Areas of Responsibility

(a) Bus Shelters/Bus Stop

Nothing to report.

(b) Streetlights

Nothing to report. Cllr Anderson advised that Streetlight 9018 in Glebe Road was not working. **It was resolved for the Clerk to report.**

(c) Grasscutting

Nothing to report.

(d) Cleaning

Nothing to report.

(e) Litter bins

Nothing to report.

(f) Seats and Benches

Nothing to report

(g) Dog waste bins/sponsorship –

The Clerk to undertake the sponsorship to start a.s.a.p. in the New Year. Sponsors will now be charge VAT when the Council re-registered from 1 January. **It was resolved for the Clerk to undertake.**

(h) **Footpaths and Walkways.**

The Clerk advised that a problem was reported to her regarding Sandringham Hill. The Clerk advised that this was the second complaint. As the work had been promised but not achieved the Clerk sent reminder emails to Sandringham and The Estate and this work has been programmed for early in the New Year.

(i) **Tree Warden**

The Clerk advised that she had received three quotes for the work on the Lime Tree. After Discussion **It was resolved for the vote to undertake the work or not and by whom should be a matter for Full Council vote. It was also resolved for the Clerk to scan and email round all the quotes.**

(j) **General Village Environment –**

The Clerk advised that she had received an email regarding litter being dropped by adults using fast food outlets in the village. It seems that the adults are dropping wrappings etc and because there is already litter on the pavement especially along Manor Road children are now dropping their rubbish. The Clerk advised that a few years ago she had written to all fast food establishments asking them to put bins out and to clear around their premises. **It was resolved for the Clerk to write again and remind establishments.**

76. Mapping

Please see minute no 74b.

77 The Warren

Cllr Anderson advised that the grasscutting was expensive and other ways need to be looked at. The Clerk advised that it was expensive because the Committee wanted the cuttings removed and these had to be taken to King's Lynn. Cllr Anderson said the he was still waiting to hear regarding moving the bund but was still waiting for Cllr Davey to undertake the levels etc.

78 Parish Partnership Scheme

No scheme to be undertaken this time round.

79 Risk Assessments

The Clerk advised that a risk assessment was completed early this year and the Clerk has achieved the actions/remedial work. The Clerk advised that Cllr M Shepherd had made some comments re the state of some of the streetlights. The Clerk advised that the Streetlight Maintenance Company could undertake a review and have achieved previously. **It was resolved for the Clerk to ask for the review to take place.**

80 Recreation area

a) Playground Inspection Reports. The Clerk advised that it had not been possible to bring up at the Staffing Meeting. **It was resolved for Cllr Hopkins to speak with the Admin Assistance to see if the checks have taken place or there has not been time to undertake.**

- b) RoSPA Report – Surfaces. The Clerk advised that the surfaces had failed for two years running and there were no monies in the budget for the first year but it would be expected that monies would be put in the budget for the next year. The Clerk advised that in her opinion the mulch was a better, stronger surface and cheaper. **It was resolved for a working party to be set up to look at situation and report back.**

81 Village Festivities

- b) Christmas Fayre/Light Switch On
Cllr Hopkins advised that several people were concerned about the delay in switching on the lights. The Recreation Ground without the facilities was not ideal and now that the Village Centre was up and running that the event should be moved to the Centre, and DVCA to take on with Mr Blackwell.

82. Correspondence –

All been addressed within the agenda items.

83. Items for the Website.

Nothing at this time.

84. Items for inclusion at next Meeting

Same agenda minus 4 and 13 and. War Memorial and War Memorial Garden added.

85. Date, time and venue of next meeting

Monday 14 January 2019 at 7.00pm in The Loft, Dersingham Village Centre.

With no further business the meeting was closed at 20:15pm.