

GORING-ON-THAMES PARISH COUNCIL

Meeting held on Monday 18th April 2016 at 7:30pm,

The Bellême Room, Goring Village Hall, High Street, GORING ON THAMES

MINUTES –THE GORING WEIR COMMITTEE

Present: Cllrs J Wills, M Brown, J Reavill, C Hall, M Bulmer, B Urbick, E Barrell

C Fox, Acting Clerk Planning, approx.40 members of the public.

Weir 16/1 **To Elect a Chairman and Vice Chairman**

Cllr M Bulmer proposed Cllr Wills as Chairman (seconded by Cllr Brown) and he was unanimously elected.

Cllr Hall was proposed as Vice Chair by Cllr Reavill seconded by Cllr Brown and she was unanimously elected.

Weir 16/2 **Apologies for absence**

Cllr B Hancox, D Brooker

Weir 16/3 **Declarations of interest**

There were no declarations of interest.

Weir 16/4 **Chairman's announcements**

It was reported that SODC had responded to the initial letter sent by Goring Parish Council but only at 2.37pm that afternoon and some emails had not arrived until eg 5.00pm so Cllrs had only had very limited time to review the response.

Weir 16/5 **Public Forum**

Mary Carr – said she would like to thank GPC and respected them for standing up for their principles. She thought most present at the meeting were of the same view. She said the proposal for the Archimedes screws was aesthetically offensive and this was not NIMBYism but a fight for justice as SODC hadn't addressed several material planning issues. She said she had set up the Campaign to Stop Goring Hydro, an action group and introduced the members present. She was hoping to enlarge the group and requested assistance from volunteers for help with PR, communication etc. Their email address was stopgoringhydro@gmail.com. The aims were to raise funds, and publicise facts about the scheme. They were determined to fight the proposal so that it was not foisted upon the village.

David Beck said there was some evidence that such schemes were falling out of favour with Government, as there had been a substantial cut in tariffs which would then undermine the financial viability, tax relief was being removed, schemes in Abingdon, Boulter's Lock Marlow had been abandoned. There was a proposed scheme at Teddington which is currently subject to a Judicial Review being brought by Lensbury Club so it seemed things seem to be moving against the idea. Some power plants were apparently receiving too much green energy and the National Grid was actually having to even pay the suppliers to turn off their equipment.

Signed:
J. Wills

Date: 9 May 2016

Mrs Juliet Watson – said she had attended the meeting at SODC at Didcot and was dismayed that no-one had visited the site so they had no idea of the visual impact, she also had friends living near Witney with a screw near their house who said it was very noisy and she could find out more information from them.

Mrs Diana Davis said she lives at The Mill and was very concerned about potential flooding, and had brought along some photographs of debris up against the weir outside her house, she was concerned who would clear debris from the screws and the EA didn't seem interested, and also whether they would have clearance to go out over the weir to reach them. She thought no-one seemed to be in charge, she had lived for 32 years by the river and since 2000 the flooding had been significantly worse as the river seemed to react much more quickly to rainfall. She said she had a lot of concerns.

Mr Peter Watson queried about the essence of the response from SODC.

However Cllr Wills responded that the meeting was really about whether further action should or shouldn't be taken.

Cllr Urbick explained the dates in that the decision was made a couple of weeks ago to send the Pre-Action Protocol Letter as is required by law, allowing 14 days for a response. In total, though, there was a 6 week period from 9th March– so Wednesday 20th - to file a full claim in the High Court.. He then explained the PAP had raised 4 grounds:

- 1) Ground 1, that there is a requirement for a screening opinion to be completed, and that it wasn't done. This is a very objective requirement - they should have adopted a screening opinion in a sensitive area, which they didn't do. Arguably, if this was the only ground it may be difficult to fight.
- 2) Ground 2 rested on two aspects – in that the SODC Planning Committee took the lead from the Officers' report which said the scheme would cause some visual harm to the Conservation Area, but have no negative impact on the AONB. It appears this argument was illogical and the PC could argue that there is visual harm to the AONB. There was also the issue of the Conservation Areas – Streatley had adopted a Conservation Area appraisal, which said it contributed to the natural beauty of the North Wessex Downs. The other harm would be potential noise (Cllr Urbick suggested further investigation of Mrs Watson's earlier point about Witney). The Officer's Report indicated about noise within a residential area, but this should be applied differently in the AONB. In the NPPF there is a statutory duty to protect the AONB. It seems as if the Officer's Report had ignored an important footnote 9 to paragraph 14 of the NPPF. As a result, we argue that Section 85 of the Countryside Act 2000 was breached, similar to the situation with Network Rail.
- 3) Ground 3 was Section 61 of the Town & Country Planning Act – to do with Listed Buildings and their setting of which there were a substantial number in the vicinity.
- 4) Ground 4 – flooding, there was a 2010 report built on a model which was adjusted in 2012 and thereafter but no account had been taken that flooding had become substantially worse since that time.

Cllr Urbick – said it was also necessary to decide whether the EA should

also be made a Defendant, and as SODC are defending their decision the Parish Council would need to prove they are wrong.

Cllr Urbick said he had had a long conversation with the solicitor and that their view was the response from SODC was poor, there were no legal justifications, just that they disagreed with the Parish Council. There was also a response letter from the EA which said "without prejudice" but that that was incorrect in a legal proceeding. They relied on a model and gave no indication of flooding since 2010 and they hadn't yet responded to the first FOI/EIR request. Additionally there is a potentially relevant court case (Lensbury Ltd v London Borough of Richmond, and the hydro plan would be at the weir in Teddington, within a Conservation Area but not in an AONB. Their barristers think they will win that case, but the decision is pending and due in about 6 weeks' time. Cllr Urbick recalled what the CEO of Lensbury told him on the phone – that it seemed immoral "...to destroy the planet to try and save it". He said the CEO promised to provide to Goring on Thames Parish Council the High Court decision ASAP. In conversation with the CEO of Lensbury, she indicated to Cllr Urbick that they wished they had made the EA a defendant.

A decision needs to be made whether to proceed, it could be decided not to proceed and the fear of it might make SODC take more care, as they allowed Network Rail to go through, the planners don't seem to completely understand the law in relation to the AONB.

The costs at present stand at approx. £3K, but the Council could stop now and cut their losses. There would be a protected cost limit of £10K but if the EA were defendants that could be another 10K, although if this is the case, this decision could be re-evaluated and the EA taken off later incurring costs of approx. £2-3K. If the EA were defendants it would potentially make the case stronger. So therefore there could be potential costs of £20-25K or even up to £30K. The question is whether proceeding was worth risking approx. £30K of public money as obviously no-one wants to risk public money.

Cllr Wills questioned how confident we could be in winning, as solicitors usually like to hedge their bets, and Cllr Urbick suggested greater than 50%, however SODC could still decide to grant permission again next time round, although if the case went against them it usually makes it difficult for them to make the same decision, and if they did so without proper procedures, a second court decision usually sides with the claimant.

Cllr Wills asked for any questions.

Mr Beck – thought £30K would be top end as the London case had hired the most expensive solicitors and they had a weaker case. Lensbury wasn't actually in the Conservation area, with a separate noise issue.

Mr Beck was worried about costs as the London case could cost £100K, and he questioned how long before that decision was revealed. Cllr Urbick said up to 6 weeks but possibly only 2 as the Judge's decision would need to be typed up, submitted, etc.

Mr Watson – requested the timescale be clarified again.

Signed:
J. Wills

Date: 9 May 2016

Mr Urbick said – the defendant SODC had 14 days to decide if they would accept our case and do a Consent Order, thus quashing the planning decision without having to go to Court. The Response had arrived today from SODC (but didn't seem to contain legal arguments, but rather that they didn't agree, and even if they were wrong, the same decision is likely to be made). A claim would need to be filed in the High Court by Wednesday.

Mrs Juliet Watson – said she would try and get more information from the people living in Witney.

Mr Ron Bridle questioned the spread of the costs involved to Judicial Review and were all the costs front loaded, Cllr Urbick suggested a chunk of around £7K up front but with two thirds of the costs in the latter part of the process. The Cost of Court case etc would be at the far end, and if we lost, the claim for costs (up to £10,000 would be made). Mr Bridle wondered if the PC could withdraw before the JR subject to the outcome of the other case.

Cllr Hall raised the point that if the PC won they would get 80% of the costs back, but the whole thing could go back to SODC again.

Cllr Wills said the decision needed to be made today. Currently the costs stood at approx. £3K but worst case scenario this could rise to £30K. Although the council could withdraw at some future point. The question was this was a proper use of public money.

Cllr Reavill then thanked Cllr Urbick for his time and efforts. He thought it important to consider all the possible outcomes alongside the costs, as well as even if the PC won they could still be back to square one again. To lose he thought would not rectify the general approach of SODC which seemed a bit sloppy especially in relation to the Network Rail electrification. He said he understood the National Trust had criticised a planning decision near the CAB site in Wallingford. He questioned the quality of the advice being given and that SODC might not be brought to task if the PC lost.

If they decided to abandon – this could be considered in relation to the decision at Teddington, it was hoped there might be financial contributions from outside, it appeared the majority in the village were against the proposal, and he wondered how the sustainability group justified going ahead.

Cllr M Bulmer said the PC had already outlaid money for the first letter and legal costs nearly almost mounted up higher than initially thought and she had personal experience of such matters, she didn't think proceeding a good use of public money.

Cllr Hall disagreed and thought it was a good use of public funds and that district councils should be held accountable, and the members of the PC were accountable to the public as they were elected representatives. She acknowledged there was quite a lot of expense but there was still the option to withdraw to minimise costs.

Cllr Barrell – questioned timings and costs. He was particularly concerned over the cost should the PC lose. It appeared the next stage would cost some £7K and then there would potentially be added costs of expert's opinions etc. It appeared two thirds of the costs would be towards the end of the case, but the PC's costs could be £10K and the other side's £10K, then if the EA was a defendant possibly their costs too. Also even if the PC won the whole thing could simply end up back with SODC again.

Cllr Hall said the community were offering some of the money. Cllr Barrell said then what they were deciding was whether some £30K of public money should be committed, and surely they would need a mandate from the village to do this. Already the first letter was to cost 1.5K but had risen to 3K, he had read SODC's response and it appeared they would not change their minds. Cllr Barrell agreed the general principle would wake up SODC but he thought this had been sufficiently achieved for £3K.

Cllr Brown – referred to the letter of response from SODC which seemed to contain a number of inconsistencies and was simply defending the Committee's decision.

Cllr Urbick said although he didn't like the idea of spending public money that there was sometimes a choice between 'bad' and 'less bad' and this action if successful could protect Goring for the next 100 years.

Cllr Wills then proposed the Committee vote to continue with the legal action and 5 voted for with 2 against so the decision was a majority vote to **PROCEED**.

Cllr Strong (the Ex-Chairman of the PC) then reminded that the Committee should also vote on whether the EA should be a defendant, the Committee voted 4 in favour of the EA as a defendant [3 against] so a majority that the EA **should be a defendant**.

The meeting closed at 8.35pm