

CLERKS REPORT – February 2011

Agenda Items

7d) I have forwarded out Ice & Snow Clearance Programme to our insurance company and their response is as follows: 'In relation to your correspondence regarding ice & snow clearance, I can advise that your Public Liability Insurance is valid, however once this task is started you have to maintain it as required. The parish council must ensure that there is sufficient salt available at all times.' The insurance company also said that we must include ice clearance and areas cleared in our timesheets so that we have a record of any clearance work undertaken.

7e) Following a further meeting with councillors, this is the response that was sent to Wiltshire Council:

With reference to your letter of 29th December and our subsequent telephone conversation, I can confirm that I have now managed to arrange a meeting with key councillors to discuss the leases and our questions are:

Car Parks

With regards to the Framework for the Lease for the car parks, the Parish Council would prefer to enter into a 10-year lease. The Parish Council will need to commit a financial outlay at the outset of the leases (solicitors legal costs & extra admin costs to secure employees/contractors for toilet maintenance) and members feel that this is more justifiable for a longer-term lease. Whether it be 2-year or 10-year, the Parish Council would require a 12-month get-out clause so that, either the Parish Council or Wiltshire Council could terminate the lease at any point, with 12-months notice. Could there be an option for a local group or organization e.g. Chamber of Trade to take on management of the car parks on the same basis (that they would have to provide free parking), if the Parish Council decided that it did not want to renew the lease?

The Parish Council would like clarification on the situation with regards to Traffic Orders for the Car Park. Will Wiltshire Council's Traffic Orders still apply once the car park is handed over to the Parish Council. There are policing and enforcement implications. The Parish Council can make its own policies with regard to abandoned cars etc. but there are likely to be other issues or illegal activities that may take place within the car parks and it would be helpful to know how these could be enforced. Your advice would be appreciated and I understand that Tisbury has been asking for similar advice.

The Framework for a Lease document states that the Parish Council would pay Wiltshire Council for electricity and insurance as shown on the attachment. Could you clarify what liabilities this insurance will cover? We need to know what third party insurance cover is required in order to get quotations from our insurance company.

It also states that these payments will be escalated by the increase in the level of Council Tax annually – would this also be subject to decrease if the level of Council Tax decreased? Can the word proportional be inserted in here so that, if the level of Council Tax increases or decreases by 2% then the level of payment increases or decreases by 2%?

Will Wiltshire Council continue to fill the salt/grit bin that is situated in the Salisbury Street Car Park?

Who will be responsible for overseeing the recycling skips situated in the Salisbury Street Car Park?

With regard to both car parks and public toilets - we note that Wiltshire Council will provide a condition survey at the time of the handover to be agreed with the recipient before the lease is signed but how does Wiltshire Council propose to deal with delapidations? Will there be interim surveys?

Boundaries – the Salisbury Street Car Park is bounded by walls on the east, south and west boundaries and the Castle Street Car Park is bounded by walls on all four sides. Could you please clarify whether the Parish Council would be responsible for the upkeep of these walls within the terms of the lease?

With regard to the recipient's condition No. 4 – the Parish Council intends, not to enter into formal sub-leases with local businesses, but informal annual licenses, invoicing them for the use of car parking spaces within the car park each year. This is an extremely important matter, so please let us know at an early stage if this is likely to cause complications.

Public Toilets

Lease – again the Parish Council would prefer to enter into a 10-year lease with a 12-month get-out clause so that either party could terminate the lease at any point, with 12-months notice.

You site, as an example of ensuring the facility and associated land is maintained in a safe condition at all times, salting during icy conditions. Can we have an assurance that Wiltshire Council will keep the salt/grit bin in Salisbury Street Car Park filled for this purpose? Could we have some clarification of 'associated land'?

Insurance – will the building be covered under Wiltshire Council's insurance?

Framework for lease says that Wiltshire Council will remove any signs denoting that the public convenience is operated by Wiltshire Council and any other fixtures and fittings!!! We assume you will leave the fixtures and fittings!!!!

Framework for lease says that Wiltshire Council will annually pay us the sum equivalent to the annual direct costs at the time of commencement of lease (£5,932), adjusted annually by any increase/decrease in the level of Council Tax as set by Wiltshire Council. Could the words proportionate percentage be inserted into this sentence? In other words, if the level of Council Tax increases or decreases by 2% then the level of payment to the Parish Council should increase or decrease by 2%.

I look forward to hearing from you.

Information Items

Planning

Application Number:	S / 2010 / 1667		
Location:	Drovers Cottage The Fields, Mere, Warminster.		
Proposal:	The installation of a flue on the north elevation (retrospective)		
Agent:	PETER JONES CHARTERED ARCHITECT LONG CLOSE HOUSE NOADE STREET ASHMORE SALISBURY SP5 5AA.		
Case Officer:	Mr S Banks		
Category Of Application:	FULL PLANNING		
Decision:	Approved	Date of Decision:	06/01/2011
Application Number:	S / 2010 / 1800		
Location:	58 White Road, Mere, Warminster.		
Proposal:	Conservatory		
Agent:	Pitman Windows Ltd Silton Barn Mill Lane Silton Gillingham SP8 5DF.		
Case Officer:	Mr S Banks		
Category Of Application:	FULL PLANNING		
Decision:	REFUSED	Date of Decision:	24/01/2011
Application Number:	S / 2010 / 1665		
Location:	FIELD TO EAST OF NEWMEAD COTTAGE SOUTHBROOK, MERE, WARMINSTER.		
Proposal:	Erect 3 stables and associated hardstanding and change of use of land to private equestrian use		

Agent:

Case Officer: Charlie Bruce-White

Category Of Application: FULL PLANNING

Decision: APPROVED

Date of Decision: 26/01/2011

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- The following is an extract from an email received from DCK Beavers Ltd (Local Council Accountants):

We have been receiving a number of enquiries regarding the disclosure requirements for items of expenditure in excess of £500.

We are writing to update you on the status of this and provide our recommendation on how to approach this issue.

- In answer to a parliamentary question on 4th November 2010 Robert Neill, Under Secretary of State, Communities and Local Government replied that "...we are *requesting* them [Parish Councils] to publish details of items of expenditure over £500.."
- Recent government announcements on this subject had advised that '144 of the total of 354 councils' have complied with the disclosure requirements. This clearly indicates that the requirement is targeted at billing authorities and the 11,000 + town and parish councils are not included in the list of councils required to make these disclosures.

At present there has been no specific advice or instruction to Town and Parish councils on what is required and how such information should be disclosed. There are also a number of potential legal pitfalls with regards to such matters as data protection.

We are therefore advising our clients that they should not rush into publishing this data until there has been clear guidance provided as to how and in what form this data should be published

It is, of course, a matter for individual councils as to whether they wish to provide additional information on their expenditure above that required by legislation and we continue to work with and advise those councils who are adopting this approach.

LOCALISM BILL: REAL PLANNING POWERS HANDED TO THE PARISHES

ACT OF PARLIAMENT TO GIVE YOU UNPARALLELED CONTROL OVER THE FUTURE OF YOUR COMMUNITY

The Localism Bill was published by the coalition Government on 13th December 2010 and represents the most radical shift in power since town and country planning was first born in the aftermath of World War Two.

The Bill is long and complex but at its heart are four powers that will fundamentally change the role of parish councils. In short, your council will now have the opportunity to play a core role in the planning system. That is not just as a consultee but as a plan maker and decision taker on planning matters.

Power 1: Neighbourhood Plans

Parish Councils will have the right to produce Neighbourhood Plans which will shape development at the parish level. Current local plans will take on the strategic role, e.g. housing numbers, strategic infrastructure, etc., and the Neighbourhood Plan will have to broadly follow this. But the detail of what is planned for the future of a community will now be determined by the parish council through the Plan. This includes where housing should be located, what local infrastructure (play areas, doctor's surgeries, etc) is needed and what development is generally not permissible.

A Neighbourhood Plan will have to be independently examined and then pass a local referendum amongst the population of the community it serves. If the majority of those voting are in favour, then a local authority is duty bound to take the plan into account when considering planning applications.

The cost of producing Neighbourhood Plans is to be covered through the proceeds of development permitted in the local area and from specific Government funding.

Power 2: Neighbourhood Development Orders

As part of the neighbourhood planning process, any parish council which produces a Neighbourhood Plan will also be able to make a Neighbourhood Development Order (NDO). An NDO automatically grant planning permission for specific development or classes of development.

The classes of development which can be granted an NDO will be controlled and must be in accordance with the Local Plan. But they will be decided by the parish council and voted on in a referendum of the local community. If the majority of those voting are in favour, then the NDO will be passed.

Where a scheme is brought forward by the parish council itself, it may seek an NDO giving it a 'community right-to-build'. This will help to delivery a community-led site-specific development which may be homes, businesses or facilities.

Power 3: Duty to consult local communities on major planning applications

The Localism Bill now requires prospective developers to consult local communities before submitting planning applications for certain developments. Developers have often done this as a way of 'demonstrating' that they have consulted locally on plans they have in fact already produced – in other words, a 'tick the box' exercise. The new powers mean that they will have to comprehensively consult on all large proposals before the plans have been produced and then show how they have taken the local community's views into account in the submitted version. Failure to reflect what local people want from development could result in refusal of planning permission.

Power 4: Local referendum on key issues

All too often local people are denied a voice on important issues. The Localism Bill changes this by allowing a local referendum to be held on any matter that the local community wishes. This referendum must be held by a local authority if a minimum of 5% of the local electorate sign a petition.

Following the referendum, the local authority must consider the steps it proposes to take and publish its decision and reasons. So, if a community held a referendum over, for example, whether a bus service should run at different times or the hours of opening of a daycare centre, the local authority would have to take into account the result of the vote and go on record with its intentions on how to address the matter.

Newsletters/Magazines & Periodicals

The Clerk – The Journal of the Society of Local Council Clerks – January 2011