

# NORTH RUNCTON PARISH COUNCIL

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Minutes of the meeting of North Runcton Parish Council held at the Cricket Club, New Road  
Tuesday 13<sup>th</sup> October 2015 – Meeting started at 7.00pm

**Present:** Cllr Rick Morrish (Chair), Cllr Kerry Fuller, Cllr Ann Towler, Cllr Barry Houchen, Cllr Gill Sergeant, Cllr Paul Yallop, Cllr Jeremy Fuller

Apologies: Cllr Amanda Dobbing

82 members of the public were present.

## **Introduction**

Cllr Morrish gave a summary of the events leading up to this extra-ordinary meeting to discuss the pro's and con's of an easement for School Lane and relating to the proposed holiday camp at Runcton Hall since being obtained by the Seventh Day Adventist (SDA) group.

The PC had asked for parishioner questions on the matter to be submitted in advance so that they could be addressed. Some questions received overlapped or were of a similar nature and could be answered by a brief summary of the current situation.

The Parish Council stated that; the SDA now own the 33 acre 'Runcton Hall' site, which they purchased with the existing planning consent for the 32 cabins / clubhouse. It is anticipated that a holiday site will mean more traffic and despite the Parish Council (and many residents) arguing that the development was unsuitable for this location in 2013/2014, the Borough Council gave planning consent. The SDA spoke to the Parish Council at beginning of the year and asked if there were any concerns with their proposed purchase. The Parish Council had highlighted the potential for increased traffic use on School Lane, the fact that there had never been a traffic impact study and the NCC condition 14 of the existing planning consent relating to widening of the road junction (at New Road). The SDA commissioned engineers who prepared a report stating the proposed low usage of the road (essentially seasonal), and confirming that the required NCC road improvements would only affect NCC land and not the PC land. The Parish Council agreed to ask for an easement for the section of School Lane at Church Green and appointed a surveyor and the Parish's solicitor to negotiate the terms. The Parish Council understood that the subsequent proposed terms of this easement had been agreed with SDA (based on the existing consented scheme), but the SDA have never returned the document for signature. This was not a 'secret deal' – it has been discussed at previous Parish Council meetings since January and minuted. Since then the SDA have been less than clear about their plans for the site. The claims and ideas they posted on their website diverge greatly from the plans they originally set out to the PC. The Parish Council completely understand residents concerns about the scale and nature of some of these proposals. The planning variation submitted in August appeared to support those ideas. They had not discussed any of these plans with the Parish Council or anyone in the village before they were submitted to the Borough in July. The planning variation was withdrawn on 9<sup>th</sup> Sept.

Cllr Morrish confirmed that if the majority of Parish residents did not want the Parish Council to sign an easement with the SDA then they would not. However, Parishioners must fully consider all the potential consequences of this action before confirming this.

The Parish Council listed their concerns as advised by their solicitor if the easement is not signed;

- The Parish Council would have taken a decision to block access to a landowner with a legally acquired site and planning consent.
- If the SDA proceeded to access their site anyway some legal action would be required to prevent this (an injunction). The Parish Council would have to apply for that injunction, (likely to cost several thousand pounds).
- An injunction is not automatically granted by the court. If the Parish Council lost or withdrew from the action the SDA could claim for their costs. The PC would almost certainly need a barrister to advise them in a court case. The likely cost of this would be £ tens of thousands.
- The Court is not going to act as an arbitrator or decide issues on what is fair or what is reasonable, it can only consider the legal arguments.
- Putting a gate up to prevent access (as has been suggested) would itself incur costs and would need to be agreed with the common rights holders and all those who are presently entitled to use the route. Keys or some similar system would be required. There would be potential issues for emergency services, deliveries, and others. The idea seems likely to be impractical.
- There would be implications of such a case on future owners, other sites using this road for access and other plans (eg the mooted development at Church Farm).
- Ultimately the Parish Council could lose control of their own road, but still have to maintain it; They would lose a chance of gaining financial assistance to maintain it when use of it seems likely to increase. They would be likely to lose the chance to control future development.

The Parish Council is legally required to plan and manage risk. It would be high risk to the Parish Council to proceed on this path towards court and the likely high costs of such action.

The potential benefits of the Parish Council signing an easement:

- The proposed easement is based on the existing permitted planning consent. If SDA or any future owner wished to vary or intensify those plans – the Parish Council would be legally entitled to ask to negotiate a new easement and or other arrangements. The Parish Council would therefore remain in control of the road, supported by law.
- In easement arrangements the reasonable legal costs are typically paid by the other party. The Parish would not need to find the funds for their legal advice/support.
- The SDA would pay for the easement, this is a typical and legally compliant ‘premium’ that the person purchasing the easement would expect to pay. The Parish would therefore acquire funds that could be spent for the benefit of all parishioners.
- The easement would include a provision for the purchaser to contribute towards future maintenance of the road – removing need for the Parish to fund this in future.
- The Parish avoids conflict, court and associated costs and establishes a legally compliant working relationship with a new neighbour.

## **1. Responses to Questions Received**

Five sets of questions were submitted from parishioners prior to the meeting, these are listed below and copied straight from the emails sent.

### **Questions 1.**

You state in your comments re. the meeting to be held on October 13th 2015:

‘ would not having a deed of easement be problematic?’ that ‘ without an easement, the Church eventually acquires a right of way by prescription’.

Could you please explain how the Church could possibly acquire such ‘right of way by prescription’ when their use of the roads to the proposed development site would be illegal – they have no easement and therefore no legal right of way.

The residents of North Runcton are against their plans and would be absolutely alert to any vehicular or pedestrian activity associated with the Church activity and would apparently have the law on their side to prohibit entry.

Please explain

The Parish Council response – As outlined, it seems likely that the matter would need to be proved in court and physically preventing access seems likely to be impractical.

### **Questions 2.**

Question 1 - The SDA will cause substantial damage to the right of way. Why do you feel it is a benefit to have it maintained, isn't it better to not have the school Lane used to excess at all? Not signing the easement will stop this damage?

Parish Council response – The Parish Council have a duty of care to keep the road in reasonable repair and it would still need to be maintained.

Question 2 - According to the statement posted, the Parish will be able to monitor the use as they know the details of the use. Surely it is easier to monitor no access? This contradicts the statement issued by the Parish Council.

Parish Council response – answered in the previous question.

Question 3 - Why will Rick Morrish not provide clarity regarding the signing of the easement? A clear yes or no will suffice.

Parish Council response – this has been done at the beginning of the meeting.

Question 4 - Has the parish council entered any agreement with the SDA, either verbally or writing? The SDA have advised they have according to the Lynn News article dated 09/10/2015

Parish Council response – No.

There were comments from Parishioners at this point suggesting gating School Lane at the VMP end of the road. A Parishioner drew attention to the existing planning consent and particularly the standard BCKLWN advisory notes on page 3 regarding access agreements. A parishioner asked whether a court would decide on whether an easement should be signed.

### **Questions 3.**

Without an easement, the SDA has no legitimate way of accessing their site for any purpose. If no easement is granted, the only way to claim a right of way is by prescription over School Lane resulting from access over a 20 year period.

The Parish Council's notice regarding the meeting on 13<sup>th</sup> October seems to assume that this right would eventually be obtained i.e. that the access to the site would simply be allowed without hinder for 20 years.

Is the Parish Council prepared to take such action as is necessary to prevent unauthorised access to the site (using the law e.g. by injunction, and/or physically e.g. by a gate), or will they stand by and let it happen, resulting in a right of way being obtained?

Parish Council response – As outlined – it seems probable that legal action could become costly and that physically restricting access may be impractical. The matter would be ongoing. The fact that an existing resident has submitted to a potential obstruction by the erection of a gate might not necessarily mean that a subsequent owner would do.

Parishioners commented that they had concerns that their properties could be de-valued due to the development of the SDA campsite.

The following Set 4 and Set 5 questions were not answered at the request of the Parishioners who wished for the question and answer session to end. Those people present who sent the questions were asked if they were happy for them not to be answered, they responded – yes.

#### **Questions 4.**

1. How does your signing of a deed of easement for the SDA, serve the best interests of your parishioners?
2. What reasons do YOU use to justify signing a deed of easement for the SDA?
3. Twice, the majority of parishioners have overwhelmingly voiced their opinion- NO DEED OF EASEMENT; how can you ignore such a mandate?
4. Are you still intending to sign a deed of easement?
5. How will signing a deed of easement now be in keeping with the PC's original objections to planning permission sought by the SDA?
6. How does the granting of a deed of easement help protect our hamlet from the SDA's stated intentions for our hamlet?

#### **Questions 5.**

1. Has a deed of easement been drafted and issued to representatives of the SDA Conference?
2. Has the Parish Council, or any member of it, made any agreement, either in writing or verbally, with either the seller or the buyers of the property in question, or any of their representatives, regarding the granting of a deed of easement?
3. In view of the objection by the Parish Council to the original planning application (13/01103/FM) can the Parish Council explain why there is now any question of granting a deed of Easement to the SDA?
4. Is the Parish Council aware of the current views of the residents of North Runcton village whom they represent?
5. Will the Parish Council lay out for us, the village residents, their democratic collective views on the issue of the said grant of easement and seek the views of the residents before making this far-reaching decision ?

#### **2. Discussion – Opportunity for further discussion within the time available**

A parishioner asked the Councillors present to state their views over whether they would vote for the easement to be signed. Of the 7 Councillors present;

5 Councillors stated they would vote to represent the majority views of the parishioners.

2 Councillors stated they needed more information before making a decision.

The financial impact upon each parishioner was discussed if legal action was required to be taken, as an increase in the precept would be needed to go some way to cover costs. A parishioner suggested a ballot would be an appropriate way to measure public opinion on the easement. The Parish Council agreed to put this as an agenda item for the meeting of 20<sup>th</sup> October for discussion and to make a decision. This idea however, was met by some hostility from parishioners – who felt the decision should be taken immediately – on the basis of the general view at the meeting.

The Chairman stated that this was a very difficult situation for the PC – which could result in significant legal and cost implications, and that a clear mandate from all parishioners would be required before the Council should make a final decision on the easement. A parishioner asked for support in favour of a vote of no confidence in the Chairman – this was supported by 18 parishioners by way of a show of hands.

A parishioner asked that it be minuted that amongst those parishioners attending the meeting it is clear there is a consensus against the Parish Council signing the easement.

A parishioner noted that there had been new documents loaded onto the planning portal regarding the application for 32 log cabins, namely NCC Highways correspondence regarding the alterations to the School Lane junction at New Road as per Condition 14 of the application. The documents relate to discharging the conditions of the existing planning consent.

The meeting closed at 8.45pm

Signed .....

10<sup>th</sup> November 2015