

Weston under Wetherley Parish Council
Ordinary Parish Council Meeting

Wednesday 8th April 2015
Weston under Wetherley Village Hall 7 pm

Present: Cllr Miss B Roberts (Chairman)
Cllr Mr P Haine (Vice Chairman)
Cllr Mrs S Chambers
Cllr Mr S Richards
Mrs M Norman (Parish Clerk and Responsible Financial Officer)

Also present: Cllr Wallace Redford; Cllr John Hammon; Cllr Norman Pratt and 1member of the public

1 Apologies

There were no apologies for absence.

2 Declarations of interest

There were no declarations of interest.

3 Minutes of the ordinary meeting of the Council on the 26th February 2015

The minutes of the ordinary meeting on the 26th February 2015 were unanimously agreed as an accurate record and signed by the Chairman.

4 Progress Reports:

Clerk: i) Transparency Code: The Clerk advised that the Transparency Code had come into effect on the 1st April as anticipated and that all measures were in hand to have the appropriate documentation on the website for July 2015.

ii) Licence to cultivate: The Council had been asked to make a formal application to Warwickshire County Council for a licence to cultivate the proposed wildlife areas along Bostock Crescent and the lay by beside the Church. The application had been submitted. The Clerk had also received notification from Mr Gavin Callard about proposed tree felling along the Rugby Road requesting confirmation that no wildlife planting would be affected by this work. The clerk was asked to inform Mr Callard that this was the case. She was also asked to inform the resident who mowed the grass verge alongside the trees that the work was to be carried out.

Cllr Haine: HS2: Cllr Haine reminded the Council that his report was available to view on the website. The Select Committee has made an interim report asking that HS2 Ltd reconsider the plans for the Cubbington-Offchurch section of the line.

b) Cllr Haine: i) Wildlife Conservation: Cllr Haine confirmed that he had had a meeting with representatives from the Forestry and Highways departments concerning the felling of trees beside St. Michael's Church. Provisional agreement had been given for the Wildlife Conservation Group to maintain the area, subject to the granting of a licence to cultivate.

Cllr Richards: Feasibility of all weather sports area: Cllr Richards stated that the first stage of the process would be to gather the necessary information by means of a questionnaire. Once the information had been processed

5 the Council could then examine funding possibilities. He produced a document outlining the required information and suggested that it be discussed with the Parish Plan Steering Committee. This was agreed to, with a provisional date of the 20th May being set, following the Parish Council meeting on that day.

5 **Emergency Plan:**

The Council supplied the Clerk with up to date information enabling her to complete the plan and forward it, as requested to the CSW Resilience team.

6 **Community Speed Watch Programme**

6 Cllr Chambers reported that she was still awaiting information from Mrs Bernadette Allen regarding the costs of the annual calibration of the speed gun. The cost of buying a refurbished gun was £1,350. Bubbenhall Parish Council had been asked to consider if they would like to join forces with Weston to share the use of the gun, and an answer was expected following their meeting on the 14th April. Cllr Redford confirmed that Eathorpe Parish Council would be willing to join in the scheme too. After discussion it was resolved that representatives attending the next Community Forum would request that the police carry out speed checks in Weston. Any further decisions would be made after the necessary information on costs had been obtained, and the responses from other villages had been considered.

7 **Village Design Statement:**

7 The purpose of a Village Design Statement is to enable local communities to have an input into the planning process and to provide guidance for planning officers to help determine development proposals for which planning applications are submitted. As any statements must be led by the community, Cllr Haine has approached the Parish Plan Steering Committee to ascertain interest in the proposal. A survey of residents' views will need to be obtained, but the initial feeling of the Steering Committee is that this should be conducted through small focus groups, rather than a formal questionnaire. The Steering Committee will inform the Council of their proposals in due course.

8 **Big Picture Show:**

8 Mr Robert Birkmyre informed the Council that interest had been expressed in forming a Film Club to screen films in the village hall. He had organised a trial run of three months starting in September to gauge whether there was sufficient interest to warrant continuing with the project and would be advertising this locally. The Village Hall Committee had agreed to pay for the licence. The Council invited Mr Birkmyre to make an application via the Grant Award Scheme for further funding to support the project.

8 Mr Birkmyre also raised the issue of printing costs for the Village newsletter. He was considering reducing the number of printed copies to four per year in an effort to save money; the remainder of the issues being available on the website. The Council's view was that the majority of residents appreciated reading the printed copy of the newsletter, whether they had internet access or not, and hoped that these could continue. It was suggested that an application to help obtain funds for printing costs should be made to the Warwickshire Rural East Community Forum.

9 **Freedom of Information Policy Document:**

9 It was unanimously resolved to adopt the Freedom of Information Policy Document (see Appendix A attached).

10 **Annual Parish Meeting:**

10 It was agreed that a banner should be purchased to advertise the meeting. This could be utilised for future events in the parish. As the banner would be located at the Village Hall end of the village, Cllr Haine offered to print some flyers for distribution at the top end of the village to ensure all residents were informed of the meeting.

11

Annual Return:

The Clerk presented the Council with an end of year Financial Statement. This was unanimously agreed. The Council approved the Annual Return and the Annual Governance Statement. The Chairman and the Clerk signed the documents.

12

Finance:

The clerk presented the financial report (payments and summary schedule attached). Listed payments were authorised and approved. The Chairman and Cllr Chambers were authorised to sign the finance sheets and supporting documentation.

13

Planning applications: No planning applications had been received

14

Business from members of the public:

A complaint had been received from a member of the public about a hedge overhanging the pavement to such an extent it was blocking pedestrian access along the Rugby Road. The clerk was asked to write to the owners of the house in question and request them to have the hedge cut back.

15

Councillors' reports and items for future agenda:

New signs regarding dog litter bins; feasibility of all weather sports facility.

16

Correspondence not noted in other items

- i) Warwick District Council: KSC4 electoral register March
- ii) ENCAMS: Dog fouling and the law
- iii) DEFRA: Parish Council Guide
- iv) Planning application W/14/0768 Notification of Appeal
- v) Planning application W/15/0161 Notification of Committee
- vi) Warwick Rural East Community Forum: Village Design Statement
- vii) Warwickshire County Council: Invitation to Chairman's Reception
- viii) WALC: newsletter
- ix) Freedom of Information Policy document
- x) CSW Resilience Team: Emergency Plan

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Signing of cheques and payment list:

The Chairman and Cllr Chambers signed the supporting documents; cheques were signed by the Chairman and the Clerk.

The next meeting of the Parish Council will take place on Wednesday 20th May 2015.

Appendix A

Weston under Wetherley Parish Council is subject to the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. It complies with the requirements of this legislation.

Many requests for information can be dealt with in the ordinary course of business and do not need to be processed under the above legislation. If the information can be provided immediately, or can be made available routinely, then we will do this. Please check our website, or noticeboard, first to see if the information is available before making any request. It is also worth looking at the Information Commissioner's website at www.ico.org.uk which has guidance for the public on making requests.

The contact details for making a request are – The Clerk, Weston under Wetherley Parish Council, The Old Bakery, Alderminster, Stratford-upon-Avon CV37 8NY
or email: westonpcclerk@gmail.com

Data Protection Act 1998

We will acknowledge receipt of a request for personal information as soon as possible. As long as the information is not subject to exemptions, or contains personal data relating to third parties, we will provide a written response within 40 calendar days of receipt of payment (there is a £10 fee). Payment can be made by cheque payable to "Weston under Wetherley Parish Council" and sent to the address shown above.

Under the terms of the Data Protection Act, we will provide you with a statement, or copies of data, as long as:

- it is "personal data" as defined by *Durant v Financial Services Authority* (2003) that is, truly personal, not merely incidental mention of a person, and within a structured, relevant filing system;
- it is not exempt from disclosure;
- you have paid the required fee;
- we have been able to verify your identity; and
- you have not repeatedly requested the information in a short space of time.

Freedom of Information Act 2000 ("FOI")

Timescales and ways of making requests

We will respond to an FOI request in 20 working days counting the first working day after the request is received as the first working day. An FOI request can be made by anyone, from anywhere, for any purpose. It must be in writing and there must be a return address to send the information to. We will confirm or deny whether we hold the information within the 20 days. If we do not hold the information we will explain why not. We will let you know if we need longer than 20 days to apply the public interest test and we will tell you at that point what exemptions we are looking at and how long we think we need. If we do need more time to apply the public interest test this will be up to a maximum of a further 20 working days so the total time will be a maximum of 40 working days.

Refusal

We may refuse a request if we consider that:

- it is vexatious (designed to cause disruption or annoyance rather than having a serious purpose, see below)
- to provide a response would exceed the statutory cost limit (£450 with staff time charged at £25 an hour which is the statutory rate). If we believe it will exceed the cost limit we will issue a refusal notice and

invite the applicant, if possible, to revise the request to make it less expensive.

- it falls within an exemption under the legislation (see below)

Charging

We can charge for photocopying and disbursements and can request these fees in advance by issuing a fees notice within twenty working days of receipt of the request. When the fees notice is issued the time limit for responding stops. If we do not receive the fee within three months we are not obliged to comply with the request.

Clarification

We can seek clarification about what is being requested. The time limit for responding stops whilst we wait for a response to our request for clarification.

Exemptions

The most common exemptions are:

Section 21 – information reasonably accessible to the applicant by other means. There is a duty to confirm or deny whether we hold it and to tell the requestor where they can find it. This is an absolute exemption which means the public interest test does not need to be applied, (see below).

Section 22 – information intended for future publication. This means it is in draft, still being worked on but when completed, or approved, it will be published. The public interest test must be applied here.

Section 31 – prejudicial to law enforcement (preventing crime, collecting tax)

Section 36 – prejudicial to the effective conduct of public affairs

Section 40 – personal data

Section 42 – legal professional privilege

Section 43 - commercial sensitivity

All except section 21 are qualified exemptions requiring the application of the **public interest test**. This means weighing up whether the public interest is best served by disclosing the information, or not disclosing it.

Environmental Information Regulations 2004 (“EIR”)

Environmental information broadly relates to:

- Air, atmosphere, water, soil, land, landscape, plants, animals, biological diversity and genetically modified organisms
- Emissions, discharges, noise, energy, radiation, waste, recycling, and pollution
- Measures and activities such as policies, plans and agreements
- Reports, cost benefit analysis and economic analysis
- The state of human health and safety, contamination of the food chain
- Cultural sites and built structures (the effect of the environment on the human world)
- Planning and development, building control, construction and renovation, floods and flooding issues, land use, traffic, parking, location of mobile phone masts and demolition of buildings

It covers documents, photos or maps. There is no distinction between formal approved documents, and anything

else. The duty is to make the information **available**. This is not the same as the duty to disclose under FOI.

There are 20 working days to respond to the request. Unlike FOI there is no extension to the time limit for consideration of the public interest test. A further 20 days is permitted though if the request is complex, or there is a large amount of information involved. There is no right to charge for inspection. Cost recovery is permitted with reasonable charges published in advance.

Exceptions

There are exceptions to the requirement to disclose, these exceptions are subject to the public interest test like FOI. The exceptions are,

- personal data
- information not held when the request was made
- the request is manifestly unreasonable (similar to “vexatious” under FOI but with “manifestly unreasonable” used instead. The courts have treated both in the same way)
- the request is too general
- information is in draft or is unfinished
- information is an internal communication
- disclosure would adversely affect the course of justice or commercial confidentiality.

There is a lot of guidance, and case law, on the use of both FOI exemptions and EIR exceptions which can be found on the Information Commissioner’s website at www.ico.org.uk.

Publication Schemes

This is a scheme available via the website, setting out the classes of information that will be made routinely available and any charges. This includes policies and procedures, minutes of meetings, annual reports and financial information. This information is easily and quickly available.

Vexatious Requests

Whilst we wish to be open and transparent and to provide as much information as possible about the work we do there are occasions when it might be necessary to decide that a request is “vexatious” within the meaning of the legislation. There have been a number of legal cases recently which have helped to set out what is meant, legally, by “vexatious” and which have confirmed that parish councils have limited resources and that their obligations under the legislation must be proportionate to those resources.

Public authorities do not have to comply with vexatious requests. There is no requirement to carry out a public interest test or to confirm or deny whether the requested information is held.

The key question is whether the request is likely to cause a **disproportionate or unjustified level of disruption, irritation or distress**. There is no exhaustive list of circumstances. Every case is unique and judged within the context and history of that specific situation.

“Vexatious” Indicators

- Abusive or aggressive language
- Burden on the authority
- Personal grudges
- Unreasonable persistence
- Unfounded accusations
- Intransigence

- Frequent/overlapping requests
- Deliberate intention to cause annoyance
- Scattergun approach
- No obvious intent to obtain information
- Futile requests

Process we will follow to determine if a request is vexatious

The parish clerk deals with all requests for information on behalf of the Parish Council. If a request is considered to be potentially vexatious the clerk will prepare a summary setting out the context and history to the request. This summary will be reviewed by the Parish Council.

The review

The following will be considered:

- The purpose and value of the request
- Whether the purpose and value justifies the impact on the public authority
- The context and history so, for example, if there has been a long and frequent series of requests the most recent request, though not obviously vexatious in itself, will contribute to the aggregated burden.
- Have there been numerous follow-up enquiries no matter what is supplied? This will be balanced against how clear our responses have been, has contradictory or inconsistent information been supplied or is a legitimate grievance being pursued?
- Whether there are alternatives to the vexatious route. If it is too expensive then section 12 (costs in excess of £450) will be used. The Information Commissioner permits the total costs for all requests from one person (or several acting in concert) to be aggregated during a period of sixty days so long as they are requests for similar information.
- Is this a round robin, a “fishing” expedition or part of an orchestrated campaign? None of these make it vexatious but are factors.

Final Warning

If, having considered all of the above, the Parish Council thinks there is a case for treating the request as vexatious then consideration will be given to a “final warning”. This is a letter, or email, to the person making the request explaining the impact the request(s) are having and asking that their behaviour be moderated. This “final” warning will not be appropriate in all cases but, if it is possible that the person making the request has not appreciated the impact of what they are doing, then it may assist.

Advice and Assistance

In addition the Parish Council may want to ask the person making the request whether advice and assistance would help in clarifying what exactly they wish the organisation to provide. Again this may not be appropriate in every circumstance but will be considered.

Report to the Parish Council

The history of the matter will go forward as part of a report to the Parish Council setting out the evidence and reasoning behind the recommendation to propose that the request be treated as vexatious.

The decision to declare a request vexatious will be taken by the Parish Council. This decision should be taken within 20 working days of receipt of the request (and this time limit should be achievable in normal circumstances) but it will depend on when the parish council meeting is next scheduled. In a small parish it is not possible for there to be an internal review process once the Parish Council has reached the decision that the request is vexatious.

Under section 14(1) of the Freedom of Information Act the refusal notice will set out the right of appeal to the Information Commissioner's Office. However, under section 17(6) if the authority has issued a previous refusal notice for a vexatious request (and it would be unreasonable to provide another one) it is not necessary to provide anything further. This will be done where the complainant has already been warned that further requests on the same, or similar topics, will not receive any response.

Please note that if a request is found to be vexatious and further requests are received on the same topic no response will be provided.

Review of Policy

This information policy (and the record retention policy) is part of the Parish Council's governance structure and will be reviewed as necessary when legislation (or legal cases) means it needs to be updated.