

MINUTES
of the MEETING of
FROYLE PARISH COUNCIL
held in the Village Hall, Lower Froyle,
on Monday **11th July 2016** at **8.00 pm**

Present:

<i>Parish Council:</i> Mr. I. Deans Mrs. J. Southern Mrs. J. Wallis Mr. N. Whines	<i>Clerk:</i> <i>Others:</i> 6 members of the public
---	---

Mr. Deans chaired the meeting.

ITEM 1 APOLOGIES FOR ABSENCE Mr. I. Macnabb

ITEM 2 MINUTES OF THE PREVIOUS MEETING

22 16-17 It was **RESOLVED** that the Minutes of the meeting of the Parish Council held on 7th June 2016 be accepted as a true record.

ITEM 3 MATTERS ARISING FROM PREVIOUS MEETINGS

7th June 2016

69 7.6.16 EHDC: L Wells FP response: "Council has received Counsel's Opinion on behalf of the company, which we need to take further advice on, before we can response to the Opinion provided by the Parish."

72 8.6.16 Mr. Whines Copy letter to EHDC Mr. Ezekiel and reply, re FoI request

77 10.6.16 Mr. Whines: Copy letter to EHDC re FP response

78 10.6.16 Mr. Peaker: Froyle Park: Noise, disturbance - nuisance - music levels

80 13.6.16 Dist.Cllr.Watts: Response to J. Wallis letter re FP discussion and understanding of legal position

83 13.6.16 EHDC: Ms. Glass: Will respond to FPC re FP when has all facts

93 16.6.16 EHDC: Mr. Leach, Monitoring Officer & Solicitor: FP: response to letter of 28.3.16:Permission was granted for the formation of a "Country Club Hotel with apartments above....." A hotel falls within class C1 of the Use Classes Order. Thus EHDC accepts that the planning permission cannot be construed as granting consent for a mixed D2 and C1 use, but hotels are frequently used for weddings. Thus even if the use as the hotel as a "wedding venue" is a distinctive sui generis land use (and that is not conceded) the same is also a use which may be regarded as ordinarily incidental to a hotel use. On the information available to it EHDC is not satisfied that the use of the hotel as a wedding venue has displaced the authorised hotel use. Therefore as matters stand EHDC is not contemplating taking any steps under Part VII of the 1990 Act to further regulate the use of the land. It is therefore intended that the items deferred from today's Planning Committee will be considered at the Planning Committee on the 7th July 2016.

96 17.6.16 S. Lewis, FP: Reply to Mr. Peaker and Ms. Ferreira re noise, disturbance, nuisance, music levels

97 19.6.16 Cornerstone Barristers: J. Findlay: FP: response to FPC letter of 17.6.16

100 21.6.16 Mr. Peaker: Response to S. Lewis, FP, re disturbance, nuisance, music levels

103 22.6.16 Cornerstone Barristers: J. Findlay: Query re originating email as evidence

105 22.6.16 Cornerstone Barristers: J. Findlay: Response re FP: Rooms as a normal hotel? Request for locals to put together a picture of the use made of FP. How it is advertised etc is important. I note this from the PC letter of 9/11/15 "A traveller arriving at Froyle Park this summer would have found the venue booked exclusively for a wedding or other event and if not they would have been hard pressed to find any staff able to take their booking. If they had found a member of the skeleton staff, they would have been offered no food as there was and is no operational kitchen, no bar or roaring log fire to sit by." Suggests speaking to EHDC officers re FPC letter of 21.6.16 and ask for swift response. Admission that the only lawful use is a hotel use is good starting point. If we can prove another or a joint use then there is a breach of planning control. The best position would be if no proper hotel use was occurring. But even if there is some such use then the other activities might be of equal importance and so still in breach of planning permission.

117 1.7.16 Cornerstone Barristers: A. Bowes: Short QC advice re FP

118 1.7.16 EHDC: N. Leach: Response to FPC request for evidence of hotel use FP and for sight of NJG QC advice: Legal advice received by EHDC was sought in contemplation of litigation, so privileged & confidential. The question

of whether the extent of the ancillary use of the hotel for weddings has grown to create a mixed use falls to be determined as a matter of fact and degree. If the Head of Planning receives information which indicates a change of use has occurred EHDC will consider whether to exercise its discretion to take enforcement action in accordance with its enforcement protocol. In the interim, EHDC will continue to monitor noise at the site and will consider exercising its

powers under the Environmental Protection Act 1990 ("EPA") to abate any nuisance. Local people may also instigate action under s.82(3) of the EPA.

119 4.7.16 Cornerstone Barristers: J. Findlay: Response to N. Leach: First, change in EHDC Counsel's position. First, they suggested there was a lawful mixed use. They have now agreed that is not the case. But, secondly, they have suggested whatever intensity of the wedding use that is lawful. Our most recent Opinion stated that was wrong in law. Now, given the terms of the email below, they appear to accept that point. Thirdly, however, and almost disingenuously, they state that if information is received they will consider the matter to determine whether there is a mixed use. The reality is that the Council's own previous correspondence advocating their first and second stances noted above clearly indicates that there is a change of use, by express reference to an existing mixed use and to the intensity of the wedding use. Further they have the recent evidence supplied by the Parish Council. If they have not considered the change of use to a mixed use issue, which is the clear inference to be drawn from their communication, then they should do so now AND on a lawful basis (as any previous consideration would appear to have been on an unlawful basis) and before they take any decision which presumes the lawfulness of the current actual use.

123 6.7.16 EHDC: A. Williams: Copy query re FP on planning meeting agenda

127 6.7.16 EHDC S. Jenkins: FP applications will not be removed from 7.7.16 Planning Committee agenda

All items had either already been reported, dealt with, pending or were discussed below.

Froyle Park planning applications and the wedding venue were discussed at this point in the meeting:

EHDC had responded to FPC's QC's Advice but did not agree with its conclusions.

Mr Whines reported on the Planning meeting of 7th July 2016:

- i) Prior to the Planning meeting, Mr. Whines had written to EHDC planning officers asking them to clarify their legal position before making a decision.
- ii) Mr. Whines tabled the planners' response, tabled at the meeting, stating that they did not consider that FPC's legal advice to be material to the planning applications to be considered, and therefore the applications remained on the agenda. However, if there were sufficient evidence of unlawfulness EHDC would consider enforcement.
- iii) Mr. Whines explained that FPC's QC was of the opinion that EHDC's legal position was contradictory. He felt that the officers had decided that they needed to determine both current applications otherwise they could be referred to the Secretary of State.
- iv) The change to the permitted noise levels was discussed, although the planning committee appeared not to understand all the technical issues or to appreciate the wider implications for the residents. The environmental health officer explained that any noise nuisance had to be quantifiable which is why he relied on the measurement of frequencies. Audibility alone was insufficient as this was subjective: people heard things differently.
- v) Mr. Whines mentioned that Compliance is no longer part of the Planning Department.
- vi) Discussing the car park application, the issue of the junction of Gid Lane with the A31 was dismissed as unimportant. The impact on the colony of newts at the site was not mentioned. The application was treated as a 'sensible' solution to a problem of random parking elsewhere in the village.
- vii) The committee resolved to approve both applications.

It was agreed that the **Clerk** would draft a note to J. Findlay QC, outlining the outcome of the meeting, enclosing EHDC's explanation for taking the two applications to committee and saying that FPC is compiling more evidence that Froyle Park is being used primarily as a wedding venue.

Following the meeting, Mr. Whines had spoken to Mr. Jenkins, head of planning at EHDC, who had said during the meeting that he was new and would like to meet FPC to discuss this matter, and Mr. Leach, EHDC Monitoring Officer & Solicitor, might come too. Mr Whines suggested an early meeting with the EHDC Head of Planning and the EHDC solicitor to establish what was meant by 'a significant evidence of substance' of a breach of planning control. It was agreed that prior to this meeting, FPC should gather more evidence of the primary use of Froyle Park being a wedding venue, such as what proportion of the business is normal hotel use by checking on availability of accommodation unconnected with weddings, noting the fact that staff are not normally available and that there is no reception.

It was agreed that **Mrs. Wallis** would compile as much as possible prior to 29th July and thereafter **Mrs Southern** will take over, with a view to meeting Mr. Jenkins in September.

Mr. Whines suggested that EHDC should be asked what evidence they have that it is primarily used as a hotel.

Mr. Whines had spoken off the record to the Alton Herald regarding the attempt to defer consideration of the two latest applications for Froyle Park. It was agreed that **Mrs. Southern** would draft a letter to the Alton Herald to update them on the outcome of the EHDC Planning Committee meeting on 7th July. Mrs. Wallis referred to the fact that FPC's QC had said that Froyle Park should apply for mixed use permission, as it is clear to residents that any hotel use at present is ancillary to wedding use. Mr. Roach had written to FPC (27th October 2015) saying that it had been decided to use it as a wedding venue after finding that a main use as a hotel would not be commercially viable. If no change of use is permitted there would be a breach of planning law. If it is primarily a wedding venue, houses should not have been built so close to it.

At the FPC meeting, a residents raised the following issues:

- i) The housing developer had not told prospective buyers about the problems for residents of Froyle Park.
- ii) EHDC environmental health officer has a list of wedding dates booked at Froyle Park.
- iii) A resident listed queries to EHDC regarding who proposed changes to the permitted noise levels and the reason for those levels, the use of the limiter, the direction and height of the source of the noise, siting of speakers, what consideration has been given of the rights of residents. It was suggested that he should write to EHDC environmental health with a copy to FPC.
- iv) Residents had compiled a list of complaints about events at Froyle Park. It was suggested they could complain to the local government ombudsman.

Mr. Deans summarised some of the reasons why FPC is pursuing this matter: 1 Residents had been misled during the planning process and we believe the venue is not being used for purpose permitted. 2 The current use has a detrimental effect on the character of the village and conservation area. 3 The parish council has a duty to represent the interests of residents who are being affected by the wedding venue.

ITEM 4 VACANCY FOR ONE PARISH COUNCILLOR

Vacancy due to resignation. Opportunity to call for election expired, and notices to fill the vacancy by co-option at a subsequent meeting of the Parish Council were posted. Copies of notices were sent to the Returning Officer.

Application for vacancy received from Dr Alexandra Roberts, Froyle Cottage, Upper Froyle.

23 16-17 It was **RESOLVED** to co-opt Dr. Alexandra Roberts as parish councillor.

Resignations had been received from two parish councillors. It was agreed that the **Clerk** would draft letters of appreciation to them. In view of their extraordinary length of service, it was **agreed** that a retiring gift as a gesture of thanks would be appropriate. A provisional budget of up to £250 for each was allowed. Action **Mrs. Wallis**.

ITEM 5 FINANCE

5.1 Approval of Payments

24 16-17 It was **RESOLVED** to note and approve the following payments made since the agenda for the meeting of 9.5.16 had been prepared

£

	CANCELLED				
			1275		0.00
13.5.16	Sue Sharman	Better Balance grant	1276		100.00
3.6.16	OCS Group UK Ltd.	Recreation ground	1277	14 16-17	178.99
3.6.16	Treloar Trust (IKC)	Mag printing	1278	14 16-17	187.00
3.6.16	CPRE	Subscription	1279	14 16-17	36.00
3.6.16	SSE	Electricity	1280	14 16-17	66.22
24.6.16	Ricoh UK Ltd.	Photocopier	1281	14 16-17	11.86
24.6.16	Treloar Trust (IKC)	Mag printing	1282	14 16-17	187.00

5.2 Receipts and Payment Accounts 2016-17

25 16-17 It was **RESOLVED** to approve the receipts and payment accounts 2016-17 as at 29th June, a copy of which had been enclosed with the agenda.

5.3 Other financial matters

5.3.1 Insurance quotation, enclosed. £910.03 per year for 3-year contract. Current cover was £1641.12 per year. Current contract expires October 2016. **Clerk** to forward to Mr. Macnabb. **Agreed** to defer consideration to FPC 19.9.16.

5.3.2 PAYE £25 per payment by agency. Currently paid quarterly. Previous clerk paid annually.

26 16-17 It was **RESOLVED** to delegate administration of PAYE to agency, at a cost of £25 per operation, twice per financial year.

ITEM 6 PLANNING

6.1 Planning Applications

85 13.6.16 **55835 The Pilgrims**, Ryebriidge Lane, UF Remove 1 Sycamore. Consultation expired. FPC had responded with no comment.

90/91 15.6.16 **23285/009/010 Bridge House**, Husseys Lane, LF Replacement verandah, replacement of windows and new timber wall cladding.

27 16-17 It was **RESOLVED** to make no comment on this application.

125 6.7.16 **20107/094/095 Froyle House**, Ryebriidge Lane, UF Conversion of 3 apartments into 6 smaller apartments.

It was agreed that **Mr. Whines** and **Mr. Deans** would ask EHDC for more information on the parking and updated plans so that the elevations could be seen.

6.2 Results of Planning Applications Noted

74 10.6.16 **26566/031 Husseys**, LF, Horse Chestnut tree on the verge to the north of the entrance to property - Overall crown reduction of 30% leaving a finished height of approximately 18m and crown spread (radius) of 5m NO OBJECTION

75 10.6.16 **56645 Orange Ham 0105**, Yarnhams Lane, 4G upgrade to existing equipment PRIOR APPROVAL NOT REQUIRED

108 24.6.16 **24771/007 Allsun**, Husseys Lane, LF, Ground floor and first floor rear extensions following demolition of ancillary store [amended proposal] PERMISSION

It was **agreed** that EHDC would be asked to respond to FPC's queries regarding use of roof space and calculation of floor in the recently permitted **Highwood House** application.

ITEM 7 REPORTS BY OFFICERS AND COUNCILLORS

7.1 Defibrillator: Mr. Whines reported that a grant would be given by Dist.Cllr. Watts instead of County Councillor M. Kemp-Gee. It was agreed that FPC would contribute to the cost of the defibrillator to be purchased by the Village Hall Management Committee.

ITEM 8 OTHER MATTERS

8.1 Playground

111 29.6.16 RoSPA Playsafety: Inspection report: overall risk medium

Mr. Deans to ask Mr. Wells and Ms Gove about the ongoing routine maintenance inspection. It was suggested that the worn areas could be grassed.

8.2 'Devolution'

76 10.6.16 Public Sector Executive Online: 'Devolution' developments

It was noted that this should be further discussed as it could result in the abolition of East Hampshire District Council.

8.3 Verge at Linden Homes

94 17.6.16 Mr. G. Roberts: Linden Homes: trees and verge in UF/95 17.6.16 Dist.Cllr.Watts: Supporting G. Roberts re trees and verge in UF/104 22.6.16 Mr. Osman: FP: Village Green uncomplete

8.4 Traffic

99 21.6.16 Mrs. Hill: Lorry obstruction LF: not suitable for HGV sign suggested.

Mr. Deans and the Speed Watch Group are in ongoing talks with HCC about traffic management in the village, including HGV signage. HCC proposals awaited.

ITEM 9 CORRESPONDENCE RECEIVED Noted

A list of the correspondence received since the agenda for the meeting of 7.6.16 had been prepared had been enclosed with the agenda. Some matters did not require any action, and some items had already been circulated to councillors. Other matters, some of which the papers were at the meeting, were (re above):

63 6.6.16 HALC: Devolution opinion question

126 6.7.16 EHAPTC: letter regarding devolution options for Hampshire sent to the Secretary of State by Liss Parish Council

ITEM 10 MATTERS RAISED BY COUNCILLORS AND OFFICERS

10.1 Professional Advice: It was **agreed** to correct the omission in previous minutes of the authorisation of payment for reports from legal consultants (*see Item 3 above*).

ITEM 11 MATTERS RAISED BY RESIDENTS

11.1 War Memorial: A resident had reported that the inscriptions are fading. This to be monitored for remedial action when necessary.

11.2 Verge in Upper Froyle: A resident had asked who mows the verges in Upper Froyle. **Mr. Deans** to speak to Mr. Wells.

ITEM 12 MATTERS FOR REPORTING IN VILLAGE MAGAZINE

Mr. Deans to discuss with Mr. Macnabb.

Clerk to send draft advertisement of the councillor vacancies to Mr. Deans.

ITEM 13 DATE OF NEXT MEETING

Ordinary PC 19th September 2016 (Monday)

The meeting closed at 10.00 pm.

Date.....

Chairman.....