

TUTBURY PARISH COUNCIL (TPC)

Due to the outbreak of Corona Virus remote meetings have been permitted according to the regulations that came into force on 4th April 2020. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

A virtual meeting of the Parish Council was hosted by 5th August 2020. Those present were Cllrs, R Lock (Chairperson) C Smedley, L Anderson, K England (Vice Chair), F Crossley, W Crossley, L Evans, P Steadman

In attendance clerk Karen Duffill.

08/20FA 1.0 Apologies

Cllr M Upton,

Non attendance

T Spencer Smith

D Morris

08/20FA 2. Declarations of Interest & Dispensation requests

2.1 None

08/20FA 3.0 Public Participation

3.1 None

08/20FA 4.0 Review the signing of Ferrer's Avenue Playing Field Lease.

Background

It was resolved at a meeting in November 2019, to renew the existing lease on the playing field for the period from November 2018 to November 2021. After this resolution was made the Duchy requested that the council also sign a Tenant's Statutory Declaration in response to Landlords Notice, that sections 24-28 of the Landlord and Tenant Act 1954 shall not apply to a business tenancy.

The Duchy requested that a new updated lease should be signed, not an extension of the existing lease. Therefore, the resolution made in November 2019 was not the same terms that were agreed.

The clerk had sought legal advice that was distributed to the councillors with details of the new lease and the Statutory Declaration. The solicitor advised that under the existing lease the council as a tenant had sitting rights if they could be classed as a businesses. However, it has not yet been proven in law that a parish council playing field could be seen as a business. The Declaration required would remove those rights. The solicitor advised that a longer lease should also be negotiated.

4.0 The chair outlined the position regarding the signing of a new lease as opposed to signing the existing lease renewal (which was no longer an option for us), highlighting the risk of eviction if we were not to sign, and the uncertainty regarding our current rights under the 1954 Act, which would need to be proven in court, potentially incurring expenses we couldn't cover as a Parish Council.

4.1 Despite entreaties by the clerk and chair the Duchy would not issue an alternative lease or a longer term (to enable the Parish Council to make investments in the field), and would not negotiate the terms of the lease or the Statutory Declarations requested. Councillors debated whether the council should accept these terms and sign the new lease and Statutory Declarations.

4.2 Members were in agreement that the Parish Council wanted to secure the lease on the playing fields to protect the green space and the facilities for the residents that regularly use the playing field,

4.3 Members were concerned that following the recent land surveys on the Land that the Duchy may sell the land for development and members were all in agreement that they wanted to ensure the land for the Parish Council and protect it from development.

4.4 Members were concerned that the Parish Council wanted to invest in the playing fields in terms of securing the boundary and improving the facilities, with such a short lease and uncertainty on the future of the playing field. The Parish Council would need to protect against financial loss in upgrading the facilities. The chair did point out however that under both the expired and proposed lease the parish council still be obliged to ensure the security of the field boundary, upon which we resolved to undertake repairs on at a previous Parish Council meeting, subject to the signing of the lease.

4.5 Some members suggested that the Parish Council should not sign the new terms or give up the sitting rights and should lobby and try to negotiate a longer lease. Further that the Parish Council should agree on the terms of a new lease. The rent review linked to inflation was different in the new lease which members also raised objection to. By signing the new lease and statutory Declarations the term was not long enough to secure the field for the longer term so therefore should not be signed.

It was suggested that the Parish Council could approach the Local MP to protect the playing field for the Parish and assist in negotiating with the Duchy to secure better terms.

4.6 A member suggested that if the Duchy did sell the land to a developer the Parish Council should negotiate with the Developer to secure alternative green sporting provision in an alternative location.

4.7 Some members raised concern that if the lease was not signed the facility might be lost and an alternative tenant could easily be found. The Duchy may find grounds to evict the Parish Council to secure the land for sale. Members suggested signing the lease and then requesting a longer-term renewal to secure the playing field facility when the lease is renewed in November 2021.

Proposal

The chair proposed that the new lease and the statutory declarations should be signed under protest, and to make the Duchy aware of this. The Parish Council should then work on an action plan to protect the facility for the longer term,

Resolution

Cllrs R Lock, K England, C Smedley, and W Crossley voted for the proposal. Cllrs L Anderson, P Steadman, L Evans and F Crossley voted against. The chairman made the casting vote to sign the lease and declarations.

The clerk will contact the solicitor to witness the signing of the lease and declarations

Meeting ended 8.40pm