



DOLPHINS HALL MANAGEMENT COMMITTEE

New Church Street, Tetbury, GL8 8DS

Charity Number: 274956



DOLPHINS HALL MONTHLY TRUSTEES MEETING

THURSDAY 4th JUNE 2020

GOOGLE HANGOUTS, VIRTUAL MEETING

Present	Apologies
Steve Scott (Chair – Resident)	Jo Tancock (Tetbury Youth Club)
Jamie Ponting (Resident)	
Sue Brown (Resident)	
Patricia Burrell (WI)	Absent
David Hobson (Tetbury Dramatic Society)	Jon Easterbrook (Resident)
Kevin Farnham (Film Society)	Darby Law (Feofees)
Mark Schumm (Tetbury Cricket Club)	Richard Witchell (Tetbury Upton Town Council)
Alex Ball (Resident)	
Paul Jones (Resident) – <i>from 7.40PM</i>	

1. OPENING COMMENTS

The Chair, Steve Scott (SS) convened the meeting at 7.30PM. Quorum required is 5, 9 trustees present so meeting is quorate.

2. DHMC RESPONSE TO TTC DECISION TO PROCEED WITH BURIAL GROUND PROJECT

SS recapped on recent events:

- On Thursday 28th May, SS, Kevin Farnham (KF) & Jamie Ponting (JP) met with the Mayor (Ann Pearce) & Interim Clerk (Tara Niblett) given change in personnel it was felt important to clarify our position in respect of Plot 8 and the impact the incorrect land registry entry was having on funding applications for the trust;
- The Mayor confirmed following correspondence she had recently had with the Charity Commission, the Heritage & Recreation Committee of Tetbury Town Council would be voting to proceed immediately with the burial ground project at their meeting on Monday 1st June;
- Fortunately at the Heritage & Regeneration Committee meeting, despite the Council confirming this was their intention, as a vote hadn't clearly been stated on the meeting agenda, the Council were unable legally to hold a vote to proceed. Instead, the Committee made a recommendation to be passed to Full Council on Monday 22nd June to commence the burial ground project ASAP;
- The recommendation was to start marking up the land and restructuring for plot for purposes of burial, but with an adaptation to the existing planning, including a proposal to only use the first 25m for burial and then to pass the remaining element of the land back to the Dolphins Recreation Centre;
- Since the meeting, members of Tetbury Town Council (Ann Pearce, Colin Pearce, Kevin Painter & Rodney Smith) have been on site discussing how they proceed and measuring the plot;
- We have contacted the Charity Commission and we are attempting to work through this with them as they had not contacted the trust in relation to their most recent communication which was only sent to Tetbury Town Council.

SS reminded people the only responsibility to us as trustees is whether we have been acted in the best interests of the trust. With this in mind, the only question is, based on the evidence we hold, have we behaved reasonably with it and in the future, could someone reasonably challenge the trust for letting control of the land pass out of



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the trust. He also stated personal opinions on the use of the land for burial purposes should not come into the discussion.

SS highlighted the documentation we hold and talked the trustees through the key points:

- TTC can produce no deeds confirming the purchase of the land, while the trust holds the deeds for purchasing the land in 1925;
- The ambiguity appears to stem from a difference between the wording in the 1974 conveyance and the map attached to the document. While the wording highlights all land from the 1973 Charity Commission Order (which includes Plot 8), the map, which does not appear to be the original (as the highlighting and shading specified in the text is not reflected on the map and some of the lines are hand drawn);
- No Charity Commission order is available to confirm the land was released from trust at some point after 1973 (this would be required by law);
- Plot 8 has never been listed on Tetbury Town Council's asset register;
- The Land Registry indicates Tetbury Town Council own the whole Recreation Ground outright, but this is incorrect, a fact the Council themselves have acknowledged in writing back in March.

Our position with Tetbury Town Council has always been a simple one – the documentation available to both parties shows the land was held in trust in 1973 and to date no evidence has been discovered which confirms it was removed from trust or was purchased. This has been requested from Tetbury Town Council on numerous occasions and has not been provided.

There has recently been a suggestion Tetbury Town Council have obtained a personal statement from an individual confirming the history of the land and confirming it is owned by Tetbury Town Council. Unfortunately, the Mayor has confirmed the statement can't be shared as the individual has specifically requested for it not to be shared.

All of the above considered, the trustees were asked the question, "if someone else picked this up in the future, could they say we acted reasonably based on the evidence we have seen and therefore would not be liable to challenge?".

SS has spoken to trust dispute solicitors who have advised the trust to immediately write a cease & desist letter to put the Council on notice of our intentions to challenge any actions they take to take possession of the land. The trust then has two options, taking out an injunction, which will cost a minimum of £10,000 (and should the Council counter the cost could increase to £20,000 if the trust lost or full litigation at a cost of £30,000 - £50,000 and if the case was lost we could potentially be liable to the Council's costs too, making a potential total cost of the action of £100,000. We are currently investigating probono legal options.

A lengthy discussion then took place amongst trustees analysing the evidence available and the viability of the potential options in terms of how we move forward.

It was proposed by Patricia Burrell (PB) that a cease and desist letter was issued to Tetbury Town Council and this was seconded by Alex Ball (AB). All others present were in favour of this action. SS to send letter.

ACTION: SS



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Given the belief the land is owned by the trust and there is a clear threat to the land, JP proposed we also write to Cotswold District Council Planning Enforcement Office to notify them of a breach of planning given it is our belief Tetbury Town Council don't own the land. This was seconded by David Hobson (DH) and all others present were in favour.

ACTION: SS

DH queried whether under our current insurance, do we have any legal aid which could be accessed to assist us and AB noted such cover can often include access to cover to help in land disputes. It was agreed KF should contact our insurers to clarify the cover available to us should Tetbury Town Council look to forcibly take control of the land.

ACTION: KF

Tetbury Town Council have indicated they will be issuing a public statement on the matter immediately after Full Council on Monday 22nd June and it was discussed whether the trust should issue our public stance in advance of this. It was proposed by Paul Jones (PJ) and seconded by Patricia Burrell (PB) that a press release be issued. All present were in favour of this action. The press release will be written and shared on Slack for individuals to comment and approve the content.

ACTION: JP

SS highlighted how our discussions to date focused on the short term and protecting the immediate threat to trust assets. He also highlighted there was a requirement to think longer term and how this matter could be resolved given it has rumbled along for years.

AB suggested we jointly, with the Council, appoint a professor of land law or a land solicitor, to agree a process of presenting and countering evidence and then allow the individual to make a judgement which both sides commit to uphold. This is another option in addition to those which SS has presented and could potentially be completed at a much-reduced cost of around £5,000 split between the two organisations.

Another option is to look at negotiating a deal or compromise with the Council or investigating the potential sale of land to them.

3. REPLACING TETBURY TOWN COUNCIL AS CUSTIAN TRUSTEE

A number of months ago the trust discussed changing our Custodian Trustee from Tetbury Town Council to the Official Custodian. At this point it was agreed this was an appropriate course of action to take and we needed to timetable the correct time to make this change. Given the current challenges, which appears to be partly caused by a lack of clarity in the Council's role in the trust, SS questioned was now the time to move forward with this previously agreed action?

It was also noted, in a joint meeting between the trust, Council and Charity Commission in 1993 that the Charity Commission had put this forward as a recommendation and it is in line with best practice cited on the Charity Commission's website.



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JP proposed we move forward with replacing Tetbury Town Council as Custodian Trustees and replacing them with the Official Custodian. This was seconded by DH and all present were in favour.

ACTION: SS

4. AOB

In order to support the current maintenance regime being put together by PJ in respect of the Recreation Ground, it was noted the current amount of cars accessing the Recreation Ground needs to be reduced to prevent the car travel damaging the improvements and work being undertaken on the facilities.

It was agreed controlled access from cars was therefore required and to enable this, gates, fencing or concrete bollards should be erected around the tarmac at the Sherwood Road entrance.

It was proposed by PB to allocate a budget of £1,000 to PJ to undertake this work and this was seconded by Mark Schumm (MS). All others present were in favour.

There being no other business, the meeting closed at 9.20PM.