

## HARDWICK PARISH COUNCIL

I hereby give notice that as previously arranged, the Meeting of the Parish Council will be held on  
**Tuesday 22 September 2015 in the School at 7.45 pm**

*The Public and Press are cordially invited to be present. The order of business may be varied.*

All members of the Council are hereby summoned to attend for the purpose of considering and resolving upon the business to be transacted at the meeting as set out below.



Gail Stoehr, Clerk 16/09/15

### AGENDA

#### Open Public Session including reports from the County & District Councillors

1. **To approve apologies for absence**
2. **Declaration of interests**
  - 2.1 To receive declarations of interests from Cllrs on items on the agenda and details of dispensations held
  - 2.2 To receive written requests for dispensation and grant any as appropriate for items on this agenda
3. **To approve the minutes of the last meeting on 25 August 2015**
4. **Co-option to fill casual vacancy = to consider any applications received**
5. **Matters arising and carried forward from the last or previous meetings for discussion/decision**
  - 5.1 (8.1.1) St Mary's play area swing end and central casting replacement
  - 5.2 (4.7) Proposal that Finance be an earlier item<sup>(IS)</sup>
  - 5.3 (4.8) Hardwick Happenings request that they become independent of the Parish Council<sup>(SR)</sup>
6. **To consider any correspondence / communications received**
  - 6.1 Caldecote and Hardwick Community car scheme – request for financial support
  - 6.2 Speedwatch Caldecote – request that they can share the Hardwick/Toft Speedwatch camera
  - 6.3 St Mary's Church request for land adjacent to the access road to facilitate their planning application
  - 6.4 Coton Ladies Netball Club request to use all weather courts for matches – to consider any terms and conditions
  - 6.5 Resident request that the Parish Council fund her dropped kerb following the decision to install yellow lines outside her property
  - 6.6 CCC Rights of Way Improvement Plan review consultation
  - 6.7 CCC Draft Flood & Water Supplementary Planning Document consultation
  - 6.8 SCDC consultation on moving to all out elections
  - 6.9 Resident litter problems in the village
7. **To consider any planning applications and decision notices and tree works applications \***
  - 7.1 Planning applications
    - 7.1.1 S/2166/15/FL – 44 Hall Drive – three bedroom bungalow
    - 7.1.2 S/2222/15/FL – Land behind Meridian Close – Change of use of agricultural land to paddock land for the keeping of horses and the erection of a stable block
  - 7.2 SCDC decision notices – to note
  - 7.3 Tree works
8. **Members reports and items for information only unless otherwise stated**
  - 8.1 Proposal that the Council grants permission to HSSC to install a lockable bollard<sup>(CC)</sup>
  - 8.2 Village notice boards – proposal that the Council considers their condition and if any action needed<sup>(BG)</sup>
  - 8.3 Street lights<sup>(BG)</sup>
  - 8.4 Proposal that the Council increases the webmaster's contractual hours<sup>(SR)</sup>
  - 8.5 Proposal that the Council reviews its decision not to allow the HSSC to install a water fountain<sup>(BG)</sup>
9. **Finance, risk assessment and procedural matters**
  - 9.1 To consider any quotes for urgent work required because of risk
    - 9.1.1 To consider Alarm Maintenance report on CCTV
  - 9.2 To receive play areas and skate park inspection reports
  - 9.3 To receive the financial report and approve the payment of bills
10. **Closure of meeting and items for the next agenda**

\* NB Some planning applications may not be specifically listed on this agenda but may still be considered by the Parish Council due to the time constraints of making a recommendation to the District Council. For more information see the current planning application consultations on <http://plan.scambs.gov.uk/swiftlg/apas/run/wchvarylogin.display>

Hardwick Parish Council meets on the fourth Tuesday in each month except December when the meeting is on the third Tuesday. Meetings are held in the School but occasionally, when the School is closed they are held in the Pavilion. Please check the notice board for the venue which is shown on the agenda for each meeting.

## CLERK REPORT TO HARDWICK PARISH COUNCIL MEETING ON 22 SEPTEMBER 2015

1. Apologies for absence – None at the time of writing
2. Declaration of interests –members should declare their interests state why they have an interest, the type of interest held and if they have a dispensation state this and the extent of their dispensation i.e to either speak or speak and vote.
3. To approve the minutes of the last meeting on 25 August 2015 – attached.
4. Co-option to fill casual vacancy – attached.
- 5.1 (8.1.1) St Mary’s play area swing end and central casting replacement  
RPM has responded “. It is the external bolts and the internal studding that are corroded and showing signs of wear, however this was from Grenadier Walk play area. As we couldn’t get into the head castings at Church walk as it could cause damage to the head casting cap, due to the condition of the swing we recommend that the head castings on this site also should be replaced as we can see external corrosion.

Regarding the fencing at Egremont road, when we quoted for the works there were only 6 panels missing. However when we carried out the work there were an extra 4 missing which we did not have the order to rectify. Our vehicle didn’t damage the gate or fencing in any way.

We have worked with you and your many councils in the past and it is not in our nature to take advantage or to pass blame.

I hope this has helped and if you have any further questions please do not hesitate to contact me.”

Can the payment be released?

Does the Council wish to accept the quotation for the castings replacement/

- 5.3 (4.8) Hardwick Happenings request that they become independent of the Parish Council<sup>(SR)</sup>  
Cllr Rose writes “The editor of Hardwick Happenings and his team request that Hardwick Parish Council agree in principle that the publication may become independent of the Parish Council subject to resolving the following issues  
Insurance  
Financial support from the Parish Council  
Any other considerations which may yet be identified

Independence would mean that HH pay all the costs and receive all the income relating to the magazine without the need for specific HPC approval  
Financial support would be negotiated with HH based on a review of the HH budget which will be prepared in the next month or two

If independence is agreed then HH would expect that HPC give HH the net income received, if any, for the period for the October 2015 issue onwards – (because advertising income is already being for future issues)

This has obvious implications regarding the need for HPC to register for VAT in the future which will benefit HPC and local advertisers who are not VAT registered

I would like to propose that HPC agrees to the request and that the chairman be given authority to discuss with HH the amount of support they will need for 2016/17 for approval by HPC.”

6. Correspondence

- 6.1 Caldecote and Hardwick Community Car Scheme – request for financial support  
Application attached.
- 6.2 Speedwatch Caldecote – request that they can either buy a share of the Hardwick/Toft Speedwatch camera or come to some other arrangement
- 6.3 St Mary’s Church request for land adjacent to the access road to facilitate their planning application  
As you are aware, St Mary’s Church in Hardwick have applied for planning permission to build a community hall on land behind the church. As a condition of the planning permission, we have been asked to include in our plans a wider access track for at least the first 5 m coming off of Main St. The Highways Department have stipulated that the track be 5 m wide for the first 5 m and then 4 m along the rest of the length.  
I have written to the owners of the track (Chiver’s Farms) in order to seek their permission to alter the plans as requested. However, I am unsure how wide the strip of land which accommodates the track is and therefore whether any alterations to the track would include the land that you own on each side.  
Thus, I am writing to request your permission to firstly alter the plans as requested by the planning department and secondly to carry out works in due course to widen the track.  
Clearly, for the purposes of continuing the project as expediently as possible, I would greatly appreciate you considering this request as soon as you can.  
Many thanks for your time and attention  
Yours sincerely  
Alison Marcus  
On behalf of St Mary’s Parochial Church Council

The NALC legal topic note entitled “Disposal and Appropriation of land by local councils” is attached.

- 6.4 Coton Ladies Netball Club request to use all weather courts for matches – to consider any terms and conditions  
I am contacting you again this year on behalf of Coton Ladies Netball team to ascertain whether Hardwick Parish Council would be prepared to allow the club use of their tennis court facility during the months of October through to April in order to train.  
We would like to investigate the possibility of training on either a Tuesday or a Thursday this season and wonder if you could let me know if a Tuesday was a possibility.  
I apologise that you had to chase us for our payments last year and i can reassure on behalf of the club that we will be more efficient in payment this year.  
Kind regards  
Alison Osborne  
On behalf of Coton Cougars Netball Club

The Council charged £10 per fixture last season.

The netball club has pointed out the floodlights didn’t work properly and a quote is being obtained for their repair.

- 6.5 Resident request that the Parish Council fund her dropped kerb following the decision to install yellow lines outside her property  
The resident has emailed all members directly.
- 6.6 CCC Rights of Way Improvement Plan review consultation  
Cambridgeshire County Council's Rights of Way Improvement Plan (ROWIP) was adopted in 2006 as part of the Cambridgeshire Local Transport Plan 2006-2011. The Plan was formulated following considerable research, data gathering and extensive public and stakeholder consultation with the Local Access Forum playing a key part in the plan's development. The Plan is well used and has been invaluable in, helping to bring about improvements to the rights of way network and enhancing countryside access.

The Draft Rights of Way Improvement Plan provides an update to the ROWIP, in line with the requirements of the Countryside and Rights of Way Act 2000. This update summarises the progress made since the ROWIP was adopted in 2006 and sets out future challenges for rights of way and countryside access to 2031 in the form of updated Statements of Action. This draft update to the ROWIP will form part of the third iteration of the Local Transport Plan, which is known as LT P3. The draft updated plan can be viewed on the County Council's website

Comments are invited on the draft documentation during the consultation period which runs until 21st October 2015.

All comments received will be taken into account when the draft document is finalised for publication in November 2015.

#### 6.7 CCC Draft Flood & Water Supplementary Planning Document consultation

I am emailing to inform you that we are consulting on the draft Cambridgeshire Flood and Water Supplementary Planning Document (SPD). The draft SPD has been developed by Cambridgeshire County Council (as Lead Local Flood Authority) in conjunction with the Local Planning Authorities (LPAs) within Cambridgeshire, and other relevant stakeholders.

Once adopted the SPD will support the implementation of and provide guidance on flood risk and water related policies in the Local Plans of Cambridgeshire planning authorities:

- Cambridge City Council
- Cambridgeshire County Council
- East Cambridgeshire District Council
- Fenland District Council
- Huntingdonshire District Council
- South Cambridgeshire District Council

The SPD has been subject to Sustainability Appraisal, Habitat Regulations Assessment and Equality Impact Assessment, and is supported by a Consultation Statement.

Adoption and Maintenance of Sustainable Drainage Systems in South Cambridgeshire – this additional document relates to South Cambridgeshire only, and provides additional information on the adoption and maintenance of sustainable drainage systems in South Cambridgeshire that should be read alongside the draft SPD.

The consultation period runs from 9am on Friday 4 September to 4.30pm on Friday 16 October 2015.

How to View the Documents and Make Comments

The consultation documents are available to view online at:

<http://consult.huntingdonshire.gov.uk/portal/pp/spd/fw>

Paper copies of the documents are also available to view at each Council's offices – details are provided in the Consultation Statement.

Comments can be made:

- Online: <http://consult.huntingdonshire.gov.uk/portal/pp/spd/fw> [this is the Councils' preferred method, please contact Huntingdonshire District Council on 01480 388424 if you have any queries relating to making comments using this system]
- By email to: [localplans@huntingdonshire.gov.uk](mailto:localplans@huntingdonshire.gov.uk)
- By post to: Planning Policy, Huntingdonshire District Council, Pathfinder House, St Marys Street, Huntingdon, PE29 3TN.

Please be aware that any representations made on these documents will be available for everyone to view, including your name and the company or organisation you represent regardless of how they are submitted, although contact details will not be made available. Following this period of consultation, we will assess any comments made and may make modifications.

If you need any further information, please feel free to contact Cambridgeshire County Council's Growth and Development Team on 01223 706574 or email

[GrowthDevelopment@cambridgeshire.gov.uk](mailto:GrowthDevelopment@cambridgeshire.gov.uk)

Yours faithfully

Tanya Sheridan

Head of Growth & Economy

Cambridgeshire County Council

- 6.8 SCDC consultation on moving to all out elections  
Attached.

- 6.9 Resident litter problems on the recreation ground

A couple of observations: most the the bins round the recreation field are small and open topped. On a windy day any plastic bottles, crisp and sweet wraps are blown out of the bins. Any chance of replacing them with closed top bins which have a better capacity and things don't blow out as easily? this also applies to the bin in front of the church.

It's great that the sports field is so well used but could the club organisers do more to create a sense of responsibility by asking that bottles etc are not left on the field? They also discard the tape that they use to hold up their socks and even the plastic gloves the trainers use are discarded.

The skate park area is as you know the most littered area. It is surrounded by brambles which need cutting back. The whole area needs a good sweep with a yard broom.

7. Planning applications and decision notices and tree works applications – to consider any which are not listed on the agenda.

- 7.1 Planning applications received

- 7.1.1 S/2166/15/FL – 44 Hall Drive – three bedroom bungalow

- 7.1.2 S/2222/15/FL – Land behind Meridian Close – Change of use of agricultural land to paddock land for the keeping of horses and the erection of a stable block

- 7.2 SCDC Decision notices

- 7.2.1 S/1794/15/FL – 325 St Neots Road – Single storey rear extension – withdrawn.

- 7.2.2 S/1630/15/FL – 17 Sudeley Grove – One and a half storey side extension – Permission granted by SCDC.

- 7.2.3 S/1462/15/FL – 38 Ellison Lane – Single storey rear extension and conversion of garage to habitable accommodation – Permission granted by SCDC.

- 7.2.4 S/0986/15/FL – The Old School – New ground floor bedroom with ensuite, extension and alterations to 3 existing windows – Permission granted by SCDC.

- 7.2.5 S/1150/11 – 18A Pippin Walk – Erection of detached single garage to the east of the property - withdrawn.

- 7.2.6 S/1917/15/PH – 3 Egremont Road – Demolition of existing conservatory and erection of rear single storey extension (application for prior approval) – Prior approval not required.

- 7.3 Tree Works applications – none at the time of writing

SCDC has advised that as a temporary measure due to the high number of applications for a short period of time, it will only be consulting the Parish Council on applications for major tree work or applications for felling substantial trees in Conservation Areas.

However, it will continue to consult the Parish Council as normal on all applications for works to TPO trees.

8. Members' reports and items for information only unless detailed

- 8.1 Proposal that the Council grants permission to HSSC to install a lockable bollard

Cllr Cracknell writes:

“I would like to raise the following topic for discussion please:

The PC will be aware that it provided two disabled parking spaces in the public car park adjacent to the Social Club many years ago (2001?). There has recently been an increase in visitors to the area (the Club, sporting events, boot camp, Scouts and Guides Hut, all-weather playing area etc) abusing the disabled provision and this has generated a number of complaints to the Manager of the Social Club. In circumstances whereby the driver can be identified the problem can be quickly remedied by a polite request for removal. Unfortunately when the offender is not using the Club facilities this can prove unsuccessful.

The Management of the Club have agreed that the installation of a lockable 'anti-parking' post will prevent casual access to these spaces as any lawful user will be able to access the area by making a quick request to the Manager. On the occasions that the Club is shut the car park is invariably always deserted and parking provision is therefore accessible.

The Club will bear the full cost of any such installation.”

8.2 Village notice boards – proposal that the Council considers their condition and if any action needed

8.3 Street lights

Cllr Grimes writes:

There are two on the recreation ground side of the street of Limes Road (the Limes Road turning by the shop) and both are in trees. The turning from Limes Road onto Quince Road also has dark spots on both corners, one having a high hedge thus not seeing around the corner. With the winter and darker times coming I wondered if anyone had bothered checking the sites where they have been installed to see if they are useful because we seem to be lacking lights at strategic points therefore leaving vulnerable dark areas.

8.4 Proposal that the Council increases the webmaster's contractual hours

The Chairman writes:

“There have been things I have asked Robert to do. I have been monitoring his work and hours – see below for the work he has done so far this month and there is more work I have asked him to do.

I realise his contract says 5 hours per month but I would like to propose that HPC can pay him for extra work at the Council's discretion. I also hope to have by the next meeting some analytics showing the numbers of people accessing the new village website – hopefully more than single figures!

I am sure that 5 hours a week will be ample in a few months' time but it is not enough for September and possibly not for the next couple of months either.

(September) 11/09/2015 Webmaster Work List

Updated Calendar

Added Contact Page

Set up Google Analytics

Set up Admin Email address

Obtained and edited Cookie and Privacy Policies (Still need uploading)

Updated Footer

Fix display bug whereby header wasn't properly hiding on mobile devices

Fix display bug whereby header wasn't readjusting to full width on mobile devices

Added link to ST Neots Road survey

Added link to village plan

Added Betty's Councillor image to council page

Written summary on Circle exhibition

Written and uploaded short items on Documents for Gail

Uploaded item on village plan

Uploaded item on village survey

Uploaded Parish Meeting Report for August

Added “Grants” page to Parish Council Section”

- 8.5 Proposal that the Council reviews its decision not to allow the HSSC to install a water fountain<sup>(BG)</sup>  
Cllr Grimes writes:  
“Having been to the HSSC meeting tonight the matter of the water fountain was again brought up. I understand that SCDC had given the go ahead for this but that HPC decided against it. Could we revisit the topic please to find out why it was denied and if we could go ahead with it now.”
- 9 Finance report – attached.
- 9.1.1 To consider Alarm Maintenance report on CCTV  
Alarm Maintenance have completed the contract to replace one camera and power supply to skateboard post and replaced the radio transmitter/receiver to the front car park entrance. They have advised that 2 original cameras worked for 20 minutes then failed and 2 new cameras are required at a cost of £530 + VAT.
- Other for info only  
Mrs Joan Harding has now finished litter picking and Jonno Gaze has resumed the role. Mrs Harding has been thanked.
10. Closure of meeting and items for the next agenda

## **DISPOSAL AND APPROPRIATION OF LAND BY LOCAL COUNCILS**

### **General Rules on the Appropriation of Land**

- 1 Section 126(1) of the Local Government Act 1972 provides that any land belonging to a local council which is not required for the purpose for which it was acquired, or has since been appropriated, may be appropriated for any other purpose for which the council is authorised by statute to acquire land by agreement.
- 2 S.126(2) empowers a parish meeting in a parish without a separate council to appropriate land not required for its original purpose, or which has since been appropriated, for some other purpose approved by the Secretary of State.

### **General Rules on the Disposal of Land**

- 3 S.127 (1) of the Local Government Act 1972 provides that a local council, and the parish trustees of a parish without a council acting with the consent of the parish meeting, may dispose of any land held by them in any manner they wish, but subject to the restrictions set out below.
- 4 A 'disposal' includes not only an outright sale of the freehold, but also the grant of a lease or assignment of a term of a lease or an exchange of land. Caselaw includes within the definition of a 'disposal' an option to purchase the freehold, an option to purchase a lease or an option to renew a lease.
- 5 Pursuant to s.270 of the 1972 Act, 'Land' is defined as 'any interest in land or any easement or right to or over land.' Thus, for example, the grant of a private right of way over council land is treated by s. 127(1) as a disposal of land. It is NALC's view that in respect of local authorities in England, a disposal would not however include a licence or permission (written or oral) to use land. If permission to use land is withdrawn, there is no legal interest in or over land to remain in occupation. The



position is slightly different for local authorities in Wales; an interest in land has been interpreted to extend to a licence. Please see paragraph 12 below.

## The Restrictions

6 S. 127(2) provides that land (as defined in paragraph 5 above) must **not** be disposed for consideration less than the best that can reasonably be obtained. The section provides two exceptions to this rule –

- a. a disposal by way of a ‘short tenancy’ may also be for less than the best consideration (see paragraph 7 below); and
- b. the Secretary of State may give his consent for a disposal at less than the best consideration (see paragraphs 8 -15 below).

### *i Short Tenancies*

7 A ‘short tenancy’ is the grant of a tenancy for a term not exceeding seven years or the assignment of a term which, at the date of assignment, has less than seven years to run.

### *ii Consent for a Disposal at less than the best consideration*

8 S.128 of the 1972 Act allows the Secretary of State to make a general consent in respect of certain land transactions by local authorities.

9 Such consent has been made in the form of ‘The Local Government Act 1972 General Disposal Consent (England) 2003’ which came into effect on 4th August 2003. As the name suggests this General Consent applies to England only and affects parish councils and parish trustees acting with the consent of the parish meeting. There is a separate General Disposal Consent (Wales) 2003 which came into effect on 31 December 2003 and this applies to community councils in Wales.

10 The General Disposal Consents allow local authorities in both England and Wales to dispose of properties at an undervalue where:

- a. the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
  - i the promotion or improvement of economic well-being;
  - ii the promotion or improvement of social well-being;
  - iii the promotion or improvement of environmental well-being;

**and**

- b. the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).'

The General Disposal Consents aim to give local authorities the autonomy to carry out their statutory duties and functions as they consider to be necessary or desirable. However, local authorities should remain aware of the need to fulfil their fiduciary duties in a way which is accountable to local people.

- 11 Councils considering disposing of land should familiarise themselves with the relevant General Disposal Consent and accompanying guidance. The General Disposal Consent and the Circular as applicable in England are available from the DCLG and can be accessed on the internet via the following link:

<http://www.communities.gov.uk/publications/planningandbuilding/circularlocalgovernment>

The General Consent and the Circular as applicable in Wales is available from the National Assembly in Wales and can be accessed on the internet via the following link:-

<http://new.wales.gov.uk/publications/circular/circulars03/NAFWC412003?lang=en>

- 12 Circular 06/03: Disposal of Land for Less Than Best Consideration' - gives guidance on the general consent as applicable in England. The circular clarifies that it is for local authorities to consider whether a proposed disposal meets the criteria set out above or whether they need to apply to the Secretary of State for specific consent

because they cannot meet the criteria. If the authority is uncertain about the need to seek consent, it may wish to seek its own legal advice on the matter and may find it useful to keep its appointed auditor informed of any legal advice it receives and the proposed action it wishes to take. The Circular also states:

'In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.'

Please note that as of 1 April 2008, the reference to the "Director of Planning at the Government Office for the relevant Region" in paragraph 11 of ODPM Circular 06/2003 should read "The National Unit for Land Acquisition, Planning and Housing Division, Government Office for London, Riverwalk House, 157-161 Millbank, London SW1P 4RR". Applications for specific consent should be sent to the Secretary of State via this address.

The Circular issued in respect of the General Disposal Consent (Wales) 2003 also confirms that 'it is for a [community council] to decide whether a proposed disposal requires the consent of the National Assembly, seeking its own legal or other professional advice as appropriate and to bear responsibility for its decisions.' In contrast to the position for parish councils stated above, the Circular as applicable in Wales recommends that a community council should confer with their external auditor when seeking to rely on the General Disposal Consent and in any event should notify its external auditor within 28 days of any decision to dispose of land in reliance upon the General Disposal Consent. With reference to paragraph 5 above, the General Disposal Consent for Wales extends the definition of a disposal of an 'interest in land' to 'any licence in or over land.' This should be noted by community councils in Wales.

- 13 The 'best consideration' is normally the open market value of the land or interest in the land. Before making a disposal a council must in practice seek professional valuation advice, either from the District Valuer or from a private valuer or surveyor, for which it will have to pay a fee. If an application is made to the Secretary of State for consent to dispose at an undervalue, a valuation report must accompany the application.

- 14 The ‘consideration’ for a disposal does not have to be exclusively money. In *Currie v Misa (1875) LR App Cas 554*, consideration was defined as ‘some right, interest profit or benefit accruing to one party, or some forbearance, detriment loss or responsibility given, suffered or undertaken by the other.’ Sometimes an exchange of land may be appropriate (with or without a money adjustment); or a lease may be granted in consideration of services to be rendered.
- 15 A disposal in breach of the ‘best consideration’ rule, otherwise than in accordance with one of the statutory exceptions would be unlawful in the sense that the matter could be investigated by the auditor, and/or be the subject of an objection at audit; it could also be restrained by the courts (see paragraph 16 below).

### **Land Subject to Charitable Trusts**

- 16 Where land is subject to a charitable or similar trust other restrictions apply as set out in s. 117 to 121 of the Charities Act 2011 and detailed below. There is also a general rule, applicable to all local authorities, that decisions taken by them in exercise of their discretion must be ‘reasonable’; e.g. authorities must take into account all relevant considerations and disregard all irrelevant ones when coming to a decision. A disposal contrary to this rule (including a sale at an undervalue not sanctioned by law) could be challenged in the High Court by way of judicial review (for more detail regarding judicial review proceedings, please see Legal Topic Note 15)
- 17 A disposition of land does not require the consent of the Charity Commission if the following conditions are met-
- a. the disposition is not to a ‘connected person’ (as defined by ss 118 and 350 to 352 of the 2011 Act ) e.g., a trustee of the charity; a donor of land to the charity; a child, parent, grandchild, grandparent, brother or sister of such trustee or donor; an officer, agent or employee of the charity; a spouse of any of the foregoing persons; an institution controlled by any such person or two or more of any such persons; a body corporate in which such persons have a substantial interest (in excess of one fifth of the share capital or of the voting power).
  - b. save in the case of a ‘short lease’ (see (3) below), the trustees must, before entering into an agreement for sale, or for a lease or other disposition (e.g. the grant of an easement), of land:

- obtain and consider a written report from a qualified surveyor (e.g. a fellow or professional associate of the Royal Institution of Chartered Surveyors or the Incorporated Society of Valuers and Auctioneers, or a person who satisfies other requirements prescribed by the Secretary of State, and who is reasonably believed by the charity trustees to have ability and experience in valuing the land in question);
- advertise the proposed disposition for such period and in such manner as the surveyor advises in his report (if he so advises);
- decide that they are satisfied, in the light of the surveyor's report, that the terms of the disposition are the best which can reasonably be obtained for the charity.
  - i the information which a surveyor's report must contain is prescribed by the Charities (Qualified Surveyors' Reports) Regulations 1992 (S.I. 1992/2980).

c. where the disposal consists in the granting of a lease for a term not exceeding seven years (other than one granted wholly or partly in consideration of a fine or premium), the trustees must:

- first obtain advice from a person reasonably believed to have the requisite ability and practical experience to provide competent advice (such a person does not have to be a qualified surveyor); and
- having considered that advice, be satisfied that the terms of the disposition are the best which can reasonably be obtained for the charity.

18 Where land is held on charitable trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity, the land shall not be sold, leased or otherwise disposed of unless public notice of the proposed disposition of at least one month's duration is given and any representations made within that period are considered by the trustees of the charity. However, this provision does not apply if the disposition is being made with a view to replacing the property with other property to be held on the same trusts, or the disposition is the grant of a lease for not more than two years (other than one granted wholly or partly in consideration of a fine or premium). The Commission may direct that this provision shall not apply if, on application by the trustees, they are satisfied that the interests of the charity would be best served by giving a direction.

- 19 The foregoing restrictions apply notwithstanding anything in the trusts of a charity (e.g., they override any provisions in the charity's governing instrument which provide differently), save as follows –
- a. where the disposition is authorised expressly or generally by or under any Act of Parliament or Scheme made by the Commissioners (provided that the authority is not made expressly subject to the sanction of a court order);
  - b. where a charity disposes of land to another charity at a price less than the best consideration and is authorised to do so by the trusts of the first-mentioned charity; and
  - c. where the trusts of a charity so authorise the grant of a lease to a beneficiary at less than the best rent with the intention of enabling the premises to be occupied for the purpose(s) of the charity.
- 20 Ss. 122 and 123 of the 2011 Act contains detailed provisions requiring all contracts for sale, leases, conveyances, transfers and other instruments relating to charitable land to state that the land is held by or in trust for a charity and requiring the trustees to certify that either the consent of the court or the Charity Commission has been obtained or that they have power under the trusts of the charity to effect the disposition and they have complied with the provisions set out in paragraphs 17 to 19 above as far as they are applicable. Where the trustees so certify, then in favour of a person who acquires an interest in the land for money or money's worth (whether from the charity or afterwards), it shall be conclusively presumed that the facts are as stated in the certificate.
- 21 Ss. 124 to 126 of the 2011 Act make broadly similar provision in relation to the mortgaging of charity land as s. 37 provides for the sale etc. of such land.
- 22 Ss. 127 and 128 of the 2011 Act deal with the release of rent charges, with which few, if any, of the charities with which local councils are connected will be concerned.

## **Commons**

- 23 S. 126(4) of the Local Government Act 1972 prohibits the appropriation of any land forming a common, without the consent of the Secretary of State, unless the total area does not exceed 250 square yards and, before appropriation, notice of intention to do so, specifying the land in question, is advertised for two consecutive weeks in a local newspaper and any objections received are considered. An appropriation by virtue of

s. 126(4) is subject to the rights of other persons in, over or in respect of the land appropriated (e.g. those rights are unaffected).

- 24 An appropriation of a common would involve loss of status and (save as indicated in 23 above) normally involves the provision of exchange land.

### **Open Space Land**

- 25 S. 126 (4A) of the LGA 1972 prohibits the appropriation of land forming open space unless the advertising etc. requirements specified in paragraph 23 are complied with.
- 26 S. 127(3) of the LGA 1972 applies s. 123 (2A) so that a disposal of open space land is prohibited unless the advertising etc. requirements specified in paragraph 23 above are complied with.
- 27 'Open space' is defined in s. 336(1) of the Town and Country Planning Act 1990 as 'any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground'. This definition is wide enough to include common land used for recreational purposes and village greens. However, a disposal of a common or a village green does not affect the status of the land; it remains a common or green (unless appropriated under the foregoing procedures before disposal).
- 28 An appropriation or disposal in accordance with the foregoing procedures of land held for the purposes of s. 164 of the Public Health Act 1875 or s. 10 of the Open Spaces Act 1906 frees the land of any trust arising solely by virtue of the land being held for those purposes.

### **Allotment Land**

- 29 Land purchased or appropriated for use as allotment gardens (defined by s.22(1) of the Allotments Act 1922 to mean an allotment not exceeding 0.25 of an acre in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family) or any land not exceeding 5 acres in extent cultivated as a garden or a farm or partly as a garden and partly as a farm) may not be sold or otherwise disposed of without the consent of the Secretary of State or the National Assembly for Wales (in Wales). Such consent may be given unconditionally or subject to such conditions as he thinks fit, but shall not be given

unless adequate provision is made for allotment holders displaced by the disposal or that such provision is unnecessary or not reasonably practicable (s. 8 Allotments Act 1925).

- 30 Applications for consent were previously made to the appropriate Regional Government Office. They were abolished by the Coalition Government in 2011. Applications should now be addressed to the DCLG:

National Planning Casework Unit

5 St Philips Place

Colmore Row

Birmingham

B3 2PW

Enquiry number: 0303 444 8050

[npcu@communities.gsi.gov.uk](mailto:npcu@communities.gsi.gov.uk)

In Wales, applications for consent are made to the National Assembly.

- 31 By way of exception, a local council may dispose of field garden allotment land to a county council for the purpose of smallholdings without ministerial consent (s. 45 Smallholdings and Allotments Act 1908). See Legal Topic Note 52 for more detail.
- 32 Under section 32 of the Small Holdings and Allotments Act 1908 where any land acquired for field garden allotments is no longer needed, or some more suitable land is available, a local council may sell or let the land or exchange it for more suitable land, and pay or receive money for equality of exchange. The proceeds of such a sale and any money received by the council by way of equality of exchange must be used for:
- discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the council in respect of the allotment land;
  - acquiring, adapting, and improving other land for allotments; and
  - any surplus remaining may be used for any purpose for which capital money may be used.

The interest on the money and any money received from letting the land must be used for acquiring other land for allotments; or in the same way as allotments rents may be used.



- 33 Where the land had been acquired on a leasehold basis, the above provisions do not apply to the loss of the land at the end of the lease.
- 34 Special rules apply to fuel and field garden allotments (the latter often being referred to as allotments for the labouring poor) established by or under Inclosure Awards. The appropriation for other purposes is subject to s. 126(4) of the LGA 1972. Usually, too, they are charitable and their disposal is subject to the Charities Act 1993 (as outlined above).

## **Burial Grounds**

### *i Unconsecrated*

- 35 A disused burial ground is included in the definition of 'open space' set out in paragraph 28 above for the purposes of appropriation and disposal. If there are monuments etc. in a burial ground, they cannot lawfully be removed until the procedures laid down in Article 16 and Schedule 3 of the Local Authorities Cemeteries Order 1977 have been complied with. Effectively, therefore, an appropriation or disposal cannot take place until those procedures are completed.
- 36 Land which is an unused part of a burial ground may be appropriated or disposed of without restriction, but subject to any trust etc. which may exist.

### *ii Consecrated*

- 37 Consecrated land is land which has been consecrated according to the rites of the Church of England. Consecration or blessing by other religious denominations does not normally restrict appropriation or disposal of the land (unless the council has bound itself by covenant or agreement with the denominational body concerned).
- 38 Consecration brings the land within the jurisdiction of the Ordinary (in effect, the bishop), and his permission, or faculty, is required before any alterations to the land can take place (e.g. removal of monuments from a churchyard).
- 39 The appropriation or use of consecrated land for other purposes requires a faculty. (The law on this subject is complicated and cannot be dealt with in this Note. Specific advice should be sought about cases involving consecrated land).

### **Land subject to a trust, covenant or agreement**

- 40 S. 131(1) of the LGA 1972 provides that, inter alia, s. 127 of the Act shall not authorise the disposal of land by a local authority or by parish trustees in breach of any trust, covenant or agreement which is binding upon the authority or the trustees (except in relation to certain open space land – see para 29 above).
- 41 The foregoing restrictions are cumulative so that, for example, the disposal of open space land subject to a charitable trust must be advertised and the relevant provisions of the Charities Act 1993 must be complied with.

### **Protection of Purchasers**

- 42 S. 128(2) (a) of the LGA 1972 provides that a disposal of land by a local authority (including parish trustees) shall not be invalid because of the absence of Ministerial consent or of failure to advertise and consider objections. S. 128(2)(b) provides that a person dealing with the authority (or with parish trustees) or claiming under the authority does not have to see or to check that any consent has been obtained or that advertising etc. has been carried out.
- 43 These savings do not apply to disposals of land subject to charitable trusts. Such disposals are governed by the Charities Act 2011.

### **Procedures for Appropriation and Disposal of Land**

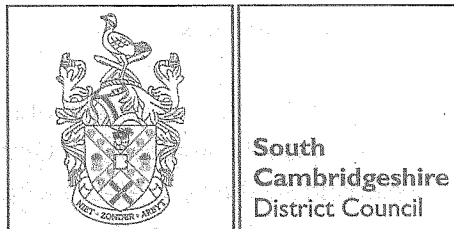
- 44 Appropriation requires simply the adoption of a formal resolution to appropriate the land in question for a specified purpose or purposes.
- 45 The initial decision to dispose of land will normally be by resolution as well. However, negotiations with a prospective purchaser or tenant may take time and a formal decision to proceed with a disposal may not be made until negotiations are completed. When discussing the disposal of land, and possibly its appropriation, a council may properly resolve to exclude the public from the relevant part of the meeting(s). Details of the terms of a disposal, especially the price, should normally remain confidential until an agreement has been reached with a purchaser or tenant.
- 46 Correspondence with potential purchasers etc. should always be headed 'subject to contract'. This will avoid the possibility of a legally binding contract coming into

existence before the formal contract documents are signed and exchanged. Once terms are provisionally agreed, a council should engage a local solicitor to undertake the conveyancing procedures.

**Other Legal Topic Notes (LTNs) relevant to this subject:**

| LTN | Title   | Relevance   |
|-----|---|---|
| 28  | Basic Charity Law                             | Deals with obligations of charity trustees and potential conflicts of interests in decisions related to land held on charitable trusts.                                 |
| 47  | Easements                                     | Describes the nature and different types of easements.  |
| 48  | The Difference between Leases and Licences    | Explains why the legal differences between leases and licences are important.   |
| 49  | Business tenancies                            | In respect of a disposal of land by grant of lease (or assignment), considers the protections conferred by the Landlord and Tenant Act 1954.                            |
| 50  | The Agricultural Tenancies Act 1995           | In respect of a disposal of land by grant of lease, explains farm business tenancies.   |
| 52  | Temporary use of Allotment Land               | Details consents required to use of allotment land for any other purpose.   |
| 57  | Easements over Common Land and Village Greens | Sets out the powers of local councils to grant easements over common land and village greens.   |
| 68  | Negligence                                    | Explains the need for tenants and occupiers of premises to have sufficient insurance cover (e.g. public liability) in place.  |
| 75  | Lease Negotiations                            | In respect of a disposal of land by grant of lease (or assignment), explains the process of negotiating them. Also defines and gives guidance on important lease terms. |
| 76  | Energy Performance requirements               | These are relevant in freehold and leasehold sale transactions.   |
| 82  | Compulsory Purchase Order                     | Sets out the procedure for local councils to compulsorily purchase land.  |

# Consultation on proposed changes to the Local Elections system from thirds to all-out elections



1. We would welcome your views by Friday 18 September 2015 on proposed changes to how we run District Council elections in South Cambridgeshire. Should we:
  - i. Keep our present system of electing 'by thirds' - where elections are held for a third of all council seats each year for three successive years out of four
  - ii. Change to 'all-out' elections - with every District Council seat up for election once every four years.

## Why are changes being proposed?

2. The Local Government Boundary Commission for England (LGBCE) is due to carry out a district 'Boundary Review' because councillors in some wards – the geographical area that councillors cover - represent many more electors than councillors in others. The review will look to iron out these inequalities, whilst preserving community identity.
3. One of the first steps LGBCE will take is to consider how many councillors are needed to represent our district effectively. If we continue to elect councillors by thirds, the Commission will look to introduce three-councillor wards across the district. If we move to all-out elections, we are likely to have more single-councillor wards.
4. Currently, 57 councillors represent 34 wards across South Cambridgeshire. A councillor's normal term of office is four years, unless they are elected in an unscheduled by-election. Depending on their size, some wards have one councillor while others have two or three.

## The current system – electing 'by thirds'

5. Each May, elections for one third of the Council's seats are held for three successive years out of four. This means that:
  - i. all seats are elected once during that period
  - ii. residents living in wards with a single district councillor have one election every four years
  - iii. residents living in wards with two or three district councillors get to vote in elections two or three times during the four-year cycle

## Moving to 'all-out' elections

6. Comments and the results of this consultation will be considered by councillors at a special Council meeting in October 2015, where they will vote on whether to move from electing by thirds to all-out elections:
  - i. two thirds of councillors will need to vote in favour of moving to all-out elections for a change to be made
  - ii. if Council votes to make a change, it is likely that the first all-out election would take place in 2018, to:
    - avoid clashing with all-out elections to Cambridgeshire County Council in 2017
    - provide time for LGBCE to complete its boundary review of our district
7. If all-out elections began in 2018, any councillors elected in 2016 under the current by thirds system would serve two-year terms of office instead of the usual four.

## Effect on parish council elections

8. A District Council move to all-out elections could potentially lead to all Parish Council elections also being held once every four years. At present, Parish Council elections are held at the same time as District Council elections. Changing the election arrangements for Parish Councils to keep their elections in line with the District Council would avoid the potential costs of holding standalone elections.

## Pros and cons

9. Our Civic Affairs Committee agreed to carry out this public consultation on 9 July 2015 (see the meeting notes [on our website](#)). In reaching this decision, the Committee discussed the merits of each option. These were the key points.

| <b>The case for the present system<br/>'electing by thirds'</b>   | <b>The case for the proposed change<br/>'all-out' elections</b>  |
|---|--|
| <ul style="list-style-type: none"><li>• following the boundary review, if every ward has three councillors, all residents will have consistent voting rights, being able to vote in three years out of four.</li><li>• more regular opportunities to hold elected councillors to account for key policy decisions</li><li>• can help voters to focus on local issues, which may otherwise be drowned out by national issues and political party campaigning</li></ul> | <ul style="list-style-type: none"><li>• avoids an absolute requirement for three-councillor wards, which may not be an appropriate model to impose upon a large rural district</li><li>• voters can make more informed judgements on four-year manifestos and individual candidate commitments, providing a clearer mandate to help the Council adopt a more strategic, long-term approach to policy and decision-making.</li><li>• clearer opportunity for voters to change</li></ul> |

|   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• allows the Council to gradually change, rather than the possibility of big political change every four years. New councillors can learn from more experienced ones.</li> <li>• “If it ain’t broke, don’t fix it.”</li> </ul> | <p>the political composition of the Council once every four years.</p> <ul style="list-style-type: none"> <li>• holding whole-Council elections once every four years, rather than smaller elections every three years out of four, would cost less and be less disruptive for public buildings used as polling stations, especially schools.</li> <li>• the results from all-out elections are simpler and more easily understood, which may increase voter turnout and avoid the confusion and ‘election fatigue’ which can arise from the current system of thirds.</li> </ul> |
|---|---|

### Have your say

Please let us know your views about the proposals **by Friday 18 September 2015** by completing our [online survey](#). For a paper copy of the survey, please email [Richard.may@scambs.gov.uk](mailto:Richard.may@scambs.gov.uk) or call 01954 713366.



**HARDWICK PARISH COUNCIL MONTHLY FINANCIAL STATEMENT**

**MEETING**

Sep-15

**Summary of previous month**

**Balance brought forward** **£167,438.83**

**Adjusts/transfs/inc during period**

CHQ 2357 ADJUSTMENT -0.08

**Expenditure approved at last meeting/between meetings**

|                   |                        |           |
|-------------------|------------------------|-----------|
| SHELTER SOLUTIONS | BUS SHELTER REPAIR     | -987.90   |
| RPM               | PLAY EQUIPMENT REPAIRS | -2,520.00 |
| RPM               | SKATE PARK REPAIRS     | -456.00   |
| COULSON           | PAVILION ROOF TILES    | -214.92   |
| GROUNDS BY ROUNDS | GRASS CUTTING          | -1,041.53 |

**Misc credits**

|                   |                |         |
|-------------------|----------------|---------|
| UK POWER NETWORKS | WAYLEAVE       | 10.61   |
| HMRC              | VAT            | 8221.12 |
| NS&I              | INTEREST       | 28.77   |
| NS&I              | INTEREST       | 29.73   |
| ASHCROFT VETS     | HH ADVERTISING | 22.00   |

*Total Adjustments* 3091.80  
 Balance revised after adjustments £170,530.63

**Bank Reconciliation to last statement**

| Account                 | Funds                    | Statement                | Outstanding             |
|-------------------------|--------------------------|--------------------------|-------------------------|
| Current Account         | 52,817.64                | 60,669.79                | -7,852.15               |
| Business Account        | 546.44                   | 546.44                   |                         |
| Cambridge Counties Bank | 89,166.55                | 89,166.55                |                         |
| Bonds                   | 28,000.00                | 28,000.00                |                         |
| <b>Total</b>            | <u><u>170,530.63</u></u> | <u><u>178,382.78</u></u> | <u><u>-7,852.15</u></u> |

**Expenditure for approval**

£

|                      |                    |         |
|----------------------|--------------------|---------|
| R CASSEY             | WEBMASTER          | 50.00   |
| LCPAS                | TRAINING           | 115.00  |
| ALARM MAINTENANCE    | CCTV REPAIR        | 970.80  |
| GROUNDS BY ROUNDS    | GRASS CUTTING      | 309.07  |
| BOURN PARISH COUNCIL | TRAFFIC CONSULTANT | 106.17  |
|                      | SALARY             | 227.97  |
| LGS SERVICES         | ADMIN SUPPORT      | 1247.21 |

*Total expenditure* 3026.22  
 Balance c/f £167,504.41

**Notes:**

*Late invoices will be brought to the meeting*