

# **RECORD OF THE DERBY ROAD FUND INFORMAL COMMITTEE DISCUSSION ON THE COMMITTEE'S PRIORITIES**

**HELD ON THE RISING OF THE DRF BUSINESS COMMITTEE MEETING ON THE 13TH NOVEMBER 2020 VIA ZOOM AND RECORDED**

## **PRESENT**

Committee members - Lyn Anthony-Higgins (in the Chair), John Mullaney, (co-Chair and zoom host), Liz Westerlund, James Harcourt, David Moro, Brian Cairns.

Advisory non-voting committee member - Gill Vooght

Several DRF residents joined the meeting

Name abbreviations of first and second names for committee members will be used throughout (e.g. JM for John Mullaney).

## **ACTIONS AGREED UPON ARE IN BOLD**

### **1. REVIEW OF DRAFT CONSTITUTION**

Items 1 a to 1 f

Discussion as to whether the previous cttee's constitution would be the basis of the proposed constitution. The former was based on the Field View Association constitution. Opinion expressed that although very useful as a starting point, there were many issues not covered. As this was a project which has been at least two years in the making, it was asked that a timescale should be proposed.

BC considered we need to ensure a Constitution that would be fit for purpose, and suggested that there should be no time restriction.

Opinion was that although the existing draft is detailed and based on good practice, it does not address the unique circumstances we have in the DR community. This is exemplified in such as that there appears to be little clarity in differences in types of membership or participation. There are also unresolved problems arising from inconclusive legal advice regarding various aspects of the road.

## **ACTIONS**

**The committee will set up a working party, chaired by the co-Chairs, to present a Constitution that would be fit for purpose for the circumstance of all the DR community.**

**The Chair proposed that the co-Chairs should take the lead along with BC from the committee, but it is key that residents should be involved in developing the Constitution.**

**Terms of Reference will be agreed so that each element may be examined in detail.**

**The working group will report back to the committee and membership, with clear terms of reference and as the Chair stated "take residents on the journey with us".**

A code of conduct will be included in the Constitution

A resident offered to help with Constitution/newsletter to keep everyone informed.

## 2. STATUS AND OWNERSHIP OF DERBY ROAD

An example of the problems faced was that of ownership and responsibility for the trees. The Field View situation was discussed as an example of the historic situation that has arisen. This is an issue where solicitors and RBC have been consulted. Discussion followed about further consulting a solicitor. Majority, if not unanimous, opinion was that this could be protracted and expensive.

With regards to maintenance, it was pointed out that the contribution is voluntary and so no invoice will be issued.

The Chair said that this committee will review communications and that as part of the consultation it should be noted that "everything is on the table".

DM, as treasurer, confirmed that "the word invoice has been removed and that since we had the legal advice earlier on this year we have removed the word invoice ... and clearly confirmed that it is voluntary contribution."

It was suggested that there should be a varying scale of voluntary contributions according to size and position of the property, with those who have a duty of care to maintaining the road taking on a heavier burden. It was agreed that this was something that could be looked at and gave the example of the practice on GR of charging by size of frontage. A resident gave the example of what she said to be bullying with the threat to withhold closure dates unless the annual fee was paid.

The Chair gave an assurance that this would most certainly not happen in future under this committee's governorship.

The Chair again stressed that one of the items included in the Constitution will be the development of a code of conduct. (See action point above, item 1)

The proposal for a graded contribution was supported by yet another resident. BC suggested that ascertaining the ownership of the road and a well-drawn-up Constitution would help.

There was a suggestion that a newsletter to involve membership would help improve communication.

DM. Information re the legal status and ownership of the road may be in the National Archives, but Covid has prevented access.

Discussion followed re history of the ownership of the road, and that this had probably reverted to the Crown, though they have no responsibility for it. It should only be necessary to establish the bankruptcy of the original ownership for this to be the case. GV has been investigating this.

Chair asked that GV should keep us fully up to date on progress. One resident pointed out that ownership is probably not the issue, but rather we should focus on 'responsibility'.

## **ACTIONS**

**The Chair required that DM should forward to the cttee the correspondence with the Crown Estate.**

**GV to keep us fully up to date on progress on historical progress.**

## **3. COMMUNICATIONS**

LW. Facebook will only be used as a social platform for exchange of news etc between residents.

The Committee will in future communicate through the website only. There will be regular updates. The website will be improved and updated to make it more accessible. Residents will also be asked for their input.

## **ACTIONS**

1. LW is the link to draw together Facebook and the website improvements.
  2. Chair to initiate the creation of a Communication Strategy policy document, including how to reach non-internet members.
- A resident stated that the website is 'a passive instrument. We should find out what/how members would like to be communicated with'.
- Discussion followed about a newsletter. The committee agreed to explore this, with an emphasis being on a personal touch rather than being generic email, recognising that not all would want this.

## **ACTIONS**

1. **A resident offered to create a contact form and JM will follow up.**
2. **JM to investigate creating an iCloud account.**
3. **BC to look at the issue of secure records.**

DM raised the question of issues around DRF generic email and its appropriate distribution. He explained the need to examine existing security arrangements, the data processor and that DM said that he is insured to hold this information.

A resident questioned the wisdom of having all this in one person's hands. Current problem is that no-one knows who are the senders or recipients of the generic emails. Discussion raised concerns that need to be addressed. The problem of communications is linked with GDPR.

There was a difference of opinion regarding the GDPR requirements. It was generally agreed that the Cttee should have access to information and that there was a need for registration. The Chair pointed out that the DRF cttee are the Data Protection Controllers and therefore have collective responsibility, and that all information held, be it personal or otherwise is in the ownership of the fund and not of any individual. (LW apologised but had to leave the meeting).

DM asked the Chair if she wished her email address to be shared. The Chair said that she did not wish to share her personal email.

## **ACTION**

**CHAIR and DM are to collaborate on this. The required review not to be invested in one person. (see GDPR section 7)**

## **4. REVIEW OF TENDERS**

Chair asked if there is a tendering policy in place.

JH keeps an eye on trees and verges, can advise on tendering companies, proposed unifying this for the whole road. Question of responsibility for DR trees. The question of insurance was further discussed in relationship to this issue.

DM asked if the cttee would take decision to remove trees or not? Discussion followed and agreement that issues of ownership and responsibility are secondary at the moment.

The Chair responded saying the cttee's decision will be based on safety grounds, not anything else, namely costs, insurance liabilities, report on health of the tree. In the case of the two condemned trees the decision is to be based on safety grounds, rather than ownership.

The Chair acknowledged SF's point that one specific tree, near her property, was not her responsibility individually, though she may be willing to act collectively.

## **ACTIONS**

- 1. to get more than one quote.**
- 2. to communicate with residents,**
- 3. JH to make arrangements**
- 4. DRF to pay for removal based on safety grounds, not acknowledging responsibility but accepting need for collective action.**

A resident noted that the whole issue of ownership and legal responsibility is a legal minefield. She advised against this route, but rather we should work together as a group with a real majority. She objected to the current practice of assuming that those who do not vote should be deemed to be in agreement with the committee's proposals. There is the need for an equitable way of dealing with common issues.

The Chair said that the current situation would suggest that there are two issues, first long-term ownership and secondly immediate safety. Chair asked what is the insurance issue?

DM. If tree caused damage without previous knowledge, the insurance would cover us, but we do have knowledge, thus DRF is responsible. Further discussion re responsibility followed. There was general agreement that this has to be a collective decision, as this is only way it will work.

The Chair specified the following actions:

## **ACTIONS**

- 1. DM to check insurance.**
- 2. DRF to pay for the removal of these two trees but without taking responsibility for it, and this is not to be taken as a precedent for other trees in the road.**
- 3. Chair to send a note to residents concerning the problem about Council's position concerning the replacement of trees.**
- 4. The Chair to send out the cttee's decision to members, based on safety grounds not responsibility.**
- 5. JH to seek quotes for the felling, removal and replacement of the two RBC condemned lime trees, including a quote from RBC.**

## **5. REVIEW SUBSCRIPTIONS AND ANNUAL INSURANCE/INDEMNITY POLICIES**

BC Discussed types of liability and asked about Officers' and members' indemnity DM stated that the existing Insurance was taken up by predecessor and he cannot clarify this point.

### **ACTION**

**DM will write to insurers to clarify, what is covered and the level of cover.**

**It was noted that there is also a separate private road policy.**

**DM to get confirmation of both insurances and will post on the website, together with costs.**

## **6. THE PINCH POINT. (PP)**

JM suggested more research required on several issues concerning the PP such as its legality, residents' rights, such as rights of way, access, also any related duties and costs. The insurance status in case of claim consequent upon closure such as fire or injury requires investigation.

A resident advised the cttee that she would be happy to be included on a working party.

DM said that residents near the PP are happy with its location

On a point of clarity, two attendees said that were not happy with the location of the PP, the way in which the consultation was handled with special reference to responsibility for that section of the road where the PP lies.

JH said lots of work on this therefore no more work needed.

A resident advised that frequency and closure times, such as coinciding with GR closure, had never been discussed.

DM disagreed with this. He can produce the voting forms and other documentation around the consultation. There were four surveys. BC withdrew his objection to taking a fresh look at the PP issue and that there should be no delay as there was still a lot to consider. (The discussion lasted 15 minutes).

### **ACTION**

**JM (or maybe a resident) to lead a working party group to examine this issue and report back to the committee and membership.**

## **7. GDPR ISSUES: COMPLYING WITH GDPR LEGAL OBLIGATIONS**

7.1 Under these obligations (Data Protection Act 2018) every organisation who processes personal information is required to pay an annual data registration fee of £40 to the ICO, unless they are exempt. The DRF is not exempt. The two years of registration records held by the ICO shows that the DRF is not registered.

#### **ACTION**

**CHAIR and DM to undertake a review of the issues to make the DRF GDPR policy fit for purpose**

**7.2 to 7.5. Agreed as part of ongoing committee agenda**

### **7. ELECTED COMMITTEE MEMBERS ACCESS TO INFORMATION**

Items

1. System in place for induction or handover arrangements for newly elected Members. Devise mini induction covering key issues for newly elected members and officers.

#### **ACTION**

**1 Chair to action this.**

**BC raised the issue of non-disclosure to members. Chair this is part of GDPR issue and that we should be registered.**

**A resident said that the problem would be that this should not become a means to 'gag' expression of dissent from the committee. Agreed only to protect private information as set out illegal obligations of the GDPR**

**Access to DRF email Inbox who is currently responsible and how can the elected Members of the Committee access the DRF Inbox?**

#### **ACTION**

**The cttee will work on a safer model**

**c. Annual Planned Maintenance programme. List of households/members and finance.**

**BC asked what is the number of the membership?**

**It is not clear if we have a definitive list. Should this be open? Difference of opinion expressed about the degree of openness and availability.**

Discussion followed about the lists of members and the different types of membership. DM. Explained that there are three lists, covering residents' occupancy, those who are eligible to vote and those who contribute to the Fund

#### **ACTION**

**DM to distribute to the committee, the three lists:**

**1. resident's occupancy**

**2. voters and**

**3. contributors**

The Chair concluded the meeting by reiterating the following guidelines and procedure for all future meetings.:

1. Committee Members to provide written report back with recommendations to Committee when they have completed a task or attended a meeting on behalf of the DRF.

2. All Committee reports to include relevant background documents to assist in decision making. Respect confidentiality of individuals
3. Don't let differences of opinion disrupt the workings of the group
4. Support the committee and accept majority decisions. Make sure they represent the views of members.
5. Ask members for their views on important issues

The meeting ended at 9.05 pm

**ABBREVIATIONS USED**

- Cttee - Committee
- DR - Derby Road
- GR - Grosvenor Road
- RBC - Reading Borough Council