

of meeting held on
Monday 20 September 2021
between 7pm and 8pm
(meeting started at 7pm)

Committee members

PRESENT: Co-Chair: Lyn Anthony-Higgins (LA) – chair meeting (attended via Zoom)
Co-Chair: John Mullaney (JM)
Treasurer: Helen Savidge (HS)
Committee: Rob Halpin (RH), Carole Kingston (CK), Jon Lloyd (JL)
Jamie Harcourt (JH) (attended via Zoom for parts of agenda items 1 and 5 but not for any votes)
Other DRFA members present: Five households
(When referencing the above, first and second name abbreviations will be used throughout)

1

Welcome and introductions

Welcome by the co-chair JM who asked those present if their names could be used in the minutes. There were no objections. He then passed over to LA who chaired the meeting which was quorate. She stated as follows:

As this is the first meeting of the Committee since the AGM on 26th June, I would like to remind everyone of the procedures to be followed by the Committee Members and attending residents. Points included were: Members will have read in advance the papers for the meeting and Committee members accept collective responsibility for decisions made; the meeting will be kept to schedule and HS will be time-keeper. I do not wish to mute anyone, but will if it looks like we are running out of time. As an unincorporated association the trustees and directors have indemnity against liability incurred if acting in good faith and in the name of the Association, acting lawfully and within our authority; voting will be a simple majority of those attending the meeting; Members will vote on the item before them, members names and how they voted will be recorded against each agenda item; only members who comply with 3.3 of the Constitution (full members who have paid their voluntary contribution) may vote. LA said that we were all neighbours with a common goal and this will work quite well if we bear that in mind. Would you please raise your hand if you wish to speak and by doing so I will assume, as Chair, that you have complied with Section 3.3 of the Constitution.

Invitations to speak will be at the Chair's discretion as is the time limit; only items on the agenda will be discussed; only one person per household can speak; please state clearly your name and if you are speaking For or Against the item; only one person to speak at a time without interruptions or spoken over. The Committee meeting is not a question/answer session, a debate, or a combative session. It is an opportunity for us to use the time effectively to focus on compelling issues which might inform the Committee's decision making process; speakers should not stray from the item on the agenda which they are discussing, or introduce side issues. The Chair will decide who shall speak if two or more people speak at the same time. Those are the procedures for this evening. Any questions, clarifications?'

JH joined the meeting via Zoom at the tail end of this agenda item. He queried whether he could speak at the meeting as he had not yet paid his voluntary contribution. LA asked JH whether this was an oversight. JH said he and his wife had been too busy to pay and it was not high on their agenda. JH said he would decide what he was going to do in the future and left the meeting. LA said this was unfortunate as JH had a lot to offer by way of discussion.

At this point LA said she would like to bring item 6 on the agenda forward to be considered in item 4.

2 Apologies for absence

JH had sent apologies in advance but in the event did attend for parts of the meeting (see above).

3 Minutes of meeting of 12 May and AGM meeting of 26 June 2021

3.1 LA said that as all meetings are now recorded on Zoom, Committee Members should avoid any lengthy discussion of points of detail of minutes unless there was a fundamental problem.

12 May Minutes: LA asked the Committee if these minutes were agreed: Minutes agreed as a correct record by **Committee Members JM, RH, JL, HS, CK.**

AGM 26 June Minutes: JL reminded the committee that a resident and attendee at the AGM had made a written request for an amendment to the AGM minutes. This amendment was not in relation to the accuracy of the recording but of the facts with regard to JM's reasons given at the AGM for the previous committee's implementation of the pinch point. JL stated that the process of recording what happened in the run-up to the installation of the pinch point is not very well documented so hard to verify. He suggested an asterisk might be added to note the disagreement. After discussion, it was agreed that the minutes of the meeting were correctly recorded and that the resident, who was not in attendance, could raise the factual point at the next AGM. David Moro (a resident) requested to clarify the situation, LA stated that the matter only concerned the resident in question. **Minutes agreed as a correct record by Committee Members JM, RH, JL, HS, CK.**

4 and 6 Treasurer's Report

4.1 HS presented the treasurer's report (full copy available on request). She ran through receipts and itemised expenditure. She noted that Council Tax bands C and D were leading the payments of contributions received. She fleshed out the background and noted that one household was willing to pay only the same contribution as last year and two were awaiting the outcome of the future of the pinch point. In total she had only five responses/queries from residents.

Contributions: HS suggested a gentle reminder for contributions be sent out at the end of October. **Agreed by Committee Members: HS, JL, RH, JM, CK.**

Leaf sweeping: HS suggested members could take control of the leaf clearing to save £500. This was deemed to be a good idea to try – cake being offered as an incentive! She then asked if it was necessary for the drains and gullies to be cleared annually. It was agreed that it was, but that the timing needed to be carefully considered to get maximum benefit. Agreed by Committee Members: HS, JL, RH, JM, CK.

DRFA website: HS asked if the website would be changed to DerbyRoad.org to save money – RH and LA would look into this before the next meeting.

5 Traffic management: lawful and legal control of Derby Road traffic

5.1 JM read his summary presentation (this will be on the website under 'Derby Road News' or if anyone needs a hard copy the committee will supply one).

JM said that any decisions regarding the road and traffic control must firstly ensure their legality and lawfulness, and secondly, have regard to ensuring the safety of all its users. As DRFA is responsible for the residents' contributions as specified in Section 2 of the Constitution, any decisions about expenditure must take their financial implications into account. Any action or decision must be covered by insurance liability.

HS thanked JM for his research. She said that the key issue for her was the lack of liability cover, as she would not want to take the risk personally or on behalf of the DRFA membership. JL asked if there was another indemnity insurance available? JM said he had

asked both our insurance companies. He had not approached any others, but he thought it unlikely that any insurer would provide cover in light of the legal advice received. It was felt that that in light of the findings in the report that the risk to the DRFA and members individually was too great. JL said a key point is that the Committee is the trustee of the residents' money and has a duty of care not to put that money at risk. JM added that there could be a possible criminal action as well as a civil one, since legal advice had been sought, received and minuted.

LA reminded members that they will be personally liable because as members they are going to be individually responsible for any injury in any claim against the Association, not just against the Association but against themselves and so it is a higher risk especially where personal injury claims might be in place. Members are also jointly and severally liable for claims. This means one member could be forced to pay all the Association's debts if the other members cannot pay.

CK said that she was not aware of the legal implications of this and would not be prepared to accept that obligation. She said that if somebody was prepared, as an individual, to take on that obligation, then it was a different matter. She certainly would not.

It was felt, in the light of the findings in the report, that the risk to the DRFA and members individually and jointly was too great and that the Committee was not prepared to put the Association, community and themselves at risk.

Agreed by Committee Members: HS, JL, RH, JM, CK.

JM proposed that the full research and summary be made available to the whole membership, but that, as it was 50 pages long, it was not viable to print it off. It would be on the website for everyone to read. The committee needs to move forward legally and lawfully. All ideas would be welcome.

LA thanked JM.

JH had re-joined the meeting at this point and was invited to speak. He said his contribution was now paid and that DM had had his hand up for some while. DM was invited to speak – he asked if the people consulted were made aware of the Certificate of Lawfulness issued by Reading Borough Council (RBC) for the implementation and closure of the pinch point. JM asked if he was referring to the rights of way. DM asserted that the right of way was principally pedestrian. JM said he had asked RBC's legal team:

1. Does the Certificate of Lawfulness for the Derby Road pinch point override the rights of way held by residents?

RBC's answer:

No, it is the opposite in fact, rights of way usually trump everything and can only be extinguished by way of a legal order.

He then asked:

2. The corollary to this is that the Certificate of Lawfulness merely allowed for the construction of the PP, whilst its operation with regards to the rights of individual residents, remains the responsibility of DRFA. Is this correct?

RBC's answer:

Yes that's correct. The Certificate of Lawfulness is only for the implementation of the pinch point by the sighting of wooden planters with 3 reflective markers, it is not for the closing thereof.

JM said there is vehicular right of way because the road has been used for vehicular right of way for over 20 years. JM also said that DM had seen deeds from 1 Derby Road stating that there are vehicular rights of way despite the fact at the 2021 AGM, DM had claimed that he had possession of a number of deeds and that none of them contained a right of way. The owner of No 33 Derby Road also said at the AGM that he had proof that he has a right of way in his deeds. JM said documents provided by JH and DM were selective and not complete,

and thus were irrelevant. He felt that recent actions had been damaging and were an attempt to deprive residents of their rights over the road.

Paul Higgs (resident) was invited to speak. He wanted clarification on what the rights of residents were, as opposed to those of the general public and who controlled those rights. JM confirmed that when RBC used the term 'public right of way' over DR, they were referring to all the residents of DR and its offshoot roads rather than the general public. PH suggested that a controllable gate could be installed and if all members were in agreement, there would be no nuisance issue and therefore no illegality. JM said we do not own the road. He suggested that as time was running out, it would be a good idea to have a meeting with PH subsequently to discuss these points, to which PH agreed.

LA invited JH to speak, noting we were running out of time. JH: said he thought that the meeting should continue if necessary and he was not going to be rushed. He said he had lots to say but there was no point in continuing.

Katrina Baugh (resident) was invited to speak. Her point was that she was very concerned about the ambulance service not knowing what was happening in respect to the closure of the pinch point and that any delay caused could be devastating and she would like this issue to be resolved.

JL reiterated the need for everyone to read the evidence on the presentation in agenda item 5 and digest it before coming back with questions as it is a very complex issue with a lot of detail.

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Next meeting

No date was set for the next meeting

Meeting ended at 8pm