

Committee members

PRESENT: Co-Chair: Lyn Anthony-Higgins (LA) and John Mullaney (JM)
Treasurer: Helen Savidge (HS)
Committee: Jon Lloyd (JL), Jamie Harcourt (JH), Carole Kingston (CK)

(When referencing the above, first and second name abbreviations will be used throughout)

THIS MEETING WAS HELD AT QUEEN ANNE'S SCHOOL.

1

Welcome and introductions

JM, who co-chaired the meeting with LA, welcomed attendees. He welcomed Matt Yeo, one of the elected Councillors for the new ward, who would be giving a short presentation at the end of the meeting.

JM said this was the first AGM with a constitution and so was a learning curve for everyone. All residents were allowed to speak whether they were full members or not. In regard to voting, one resident had asked that their privacy be respected as to whether they were a full member or not. In order to accommodate this, all votes would be recorded and then the result for full votes would be given. This could take some time.

JM then introduced the Committee members: himself and Lyn Anthony-Higgins (co-chairs), Helen Savidge (treasurer), Jamie Harcourt, Carole Kingston and Jon Lloyd.

2

Apologies for absence

A total of 10 households registered their apologies for absence.

3

Minutes of meetings the AGM held on 26 June 2021

David Moro objected to the minutes, as he said he had supplied information to the Chairs during the 2021 AGM that he thought should have been attached to the minutes.

The minutes were approved by all other attendees and accepted with no amendments.

4

Statement of accounts for year ended 5 April 2022

HS said accounts had been previously circulated to residents. They showed the transactions on the account for the time period rather than the use of creditors or debtors. HS said a treasurer's report is provided at each Committee meeting which itemises expenditure and highlights upcoming invoices.

Costs

HS thanked Simon Scaddan, JH and Sean and Penny Mitchell for their work on the planters.

Accountancy cost: HS stated this was now £66 reduced from £360 using a bookkeeper as agreed at the last AGM.

Printing and stationery costs: HS noted that last year involved significantly more printing than usual with the draft Constitution and Code of Conduct adding to costs – hopefully costs would be reduced going forward. She said the Committee was using an independent printer who was cheap, quick and efficient. For the AGM, the costs for envelopes and printing both the invitation and the agenda plus the accounts came to £35.88.

Insurance cost: Previously there had been two different insurance policies; these had now been combined which would lead to a saving of approximately £100 going forward.

Leaves and gullies: HS said Reading Borough Council (RBC) had sent their invoice for £396 for the gully clean in too late to be included in this set of accounts. She noted that this year was the first time the Committee and residents had cleared the leaves themselves – she thanked those residents who had braved the snow to help and JH for the use of his trailer. The Committee had received supportive feedback and were happy to do it again this year as it reduced costs to the DRFA.

Contributions: HS said she was aware that some residents had concerns about the change to a Council Tax-based system and also that following legal advice in 2020, contributions were now voluntary. She had included the number of people who had made contributions in each of the last 3 years on the accounts info sent to residents. The overall number of contributions in 2021

was similar to the 2020 and 2019 figures, but 21 households who hadn't contributed in 2020 did so in 2021, while 19 households who had contributed in 2020 didn't in 2021. A few households had given reasons for not paying in 2021: 2 referring to the change to the Council Tax system, 2 referring to the pinch point (1 for and 1 against) and 1 referring to the lack of everyone else people paying as their reason for not contributing.

Comments:

George Bugaj felt there was a strong moral obligation for residents to pay. Several other residents agreed. David Moro claimed he had previously presented evidence to the Committee that contributions from Greycoat Court and Field View were not voluntary. Andrew Taylor asked if the voluntary/compulsory question could be resolved if enough residents supported one or other of the options. JM stated that the previous committee had accepted in 2020 that contributions were voluntary following the solicitor's advice, which could not be set aside. Simon Scaddan confirmed as chair of the previous committee that this was the case.

Helen Lambert wondered if the key might the request for contributions was worded. HS said she was open to any suggestions from residents on this. Maria Clift felt the Council Tax-based contribution system was unfair to those in newer properties which had been assigned to higher Council Tax bands. HS stated that the change to the Council Tax system had been voted in at the 2021 AGM and the contribution system had in fact originally been based on the rates system.

5

Appointment of accountant/bookkeeper to 6 April 2023

It was agreed that the bookkeeper would be retained at £66.

6

Correspondence and Facebook

JL said two questions had been put forward by one resident. The first was whether there should be a correspondence section as a matter of course in all Committee meetings. He said this could be done, but would only be for items sent to the DRFA email address or by post. A number of emails from residents over the past year re DRFA business had been sent to Committee members' personal email addresses, which was a problem for three reasons: 1) messages might slip through the cracks going into spam folders and not be read; 2) there would be no official record on the DRFA account of the exchange; and 3) GDPR meant that personal email addresses should not be used without members' explicit consent. JL also noted that some residents might not wish for their correspondence with the DRFA to be made public. There was also the issue of long-running correspondence with certain households, where little benefit might be gained from raising this at every meeting. He said it would be necessary to see how things went in future meetings in terms of how this would best be addressed.

JL then said there had been some confusion over whether the Derby Road Community Facebook page was an official DFRA page or not. His understanding was that while at times Committee members had moderated the page, it had also been moderated by non-Committee members. When previous Committee members had moderated the page, it had been used for general community purposes and not to notify residents of all the Committee's activities and upcoming meetings, so it was essentially a page for residents. It was also not an appropriate forum to discuss complex legal issues. Paula Benham said that her request to rejoin the page had taken a long time to be approved. JL said he was no longer moderating the page, which was now being overseen by a resident.

JL noted that in the past year there had been an increase in personal attacks made by a very small number of residents on the Facebook page and also by email to the Committee. He also stated that he had been personally harassed on Derby Road several times by the members of one household, including when his young children had been present. Personal attacks made on Facebook had been referred to by the perpetrators on one of these occasions, so there appeared to be a link between the unpleasant behaviour online and this harassment. Such behaviour was completely unacceptable and had no place in this community. He appreciated that with 200+ households in the road, there were likely to be differing views, but that such views must be expressed politely.

David Moro stated he felt he was from the household JL was referring to. JL said he did not intend to name names at the meeting, but wished to put the incidents on the record. Jessica Heaven asked why the subject was being raised. JL repeated that there appeared to be a link between personal attacks made online and the harassment he had received in person. Jessica felt that respect should be reciprocal. JL agreed that all residents should show respect to each other.

Olivier Duval suggested a noticeboard could be placed somewhere on the road for DRFA information for those residents who were not online. Annie Lee mentioned that in the past, a tree had been used to post notices for residents.

Road Safety and status of the road

JM noted that the meeting was not quorate for the purposes of voting in changes (41 full members), so any votes that took place would only be indicative rather than actionable.

JM read out the following statement:

“Previous committees and AGMs had received legal opinion that closing Derby Road without observing certain conditions was unlawful. As there was some disagreement about this amongst committee and association members up to, and expressed at, the 2021 AGM, the minutes of the 2021 AGM record that the committee was instructed to investigate this further.

My first step was to contact the solicitor who had given the original advice to the committee. I gave him more detailed information which that previous committees had gathered, but which he had not seen. I also gave him the correspondence entered into by myself, during 2020-2021, with Reading Borough Council, the emergency services, including Thames Valley Police, and our insurers.

This was reported at committee meetings and a detailed document circulated to the membership through the Fund’s website. For those who requested it, the document was distributed in printed form.

The solicitor reported that this new information confirmed and reinforced his previous opinion. As such, unless the committee is in receipt of contrary professional legal opinion, undertaking any action, which we have been told is probably unlawful, such as closing and locking the gates without providing means of transit to residents and their legitimate visitors, would place DRFA committee members and individual association members at risk of actionable charges.

If any member wishes to present a different legal opinion, such as that it is allowable to lock and leave the gates or pinch point, this will be considered only if authenticated professional legal opinion is forthcoming and presented to the committee. Members’ private interpretation of this complicated legal area does not constitute legal opinion, consequently the DRFA cannot act on it. As part of its duty of care to all residents, it is important for the committee to act on legal opinion that it has been received from solicitors. The committee will always review any new legal opinions from legal professionals. Currently there has been no new or different legal opinion received.

All legal opinion to date is as follows:

Firstly, Derby Road is a privately maintained road, it is also an adoptable road, as also identified as such by RBC, and was designed and built as such from its inception at the end of the 19th century, and so falls, and always has fallen, within the scope of the Highways Acts as a ‘road’. It most certainly is not part of a private enclave.

Secondly there is ‘the right of using at all times and for all purposes for which a public highway is used the said road called Derby Road’. This phrasing is used in the earliest deeds and records, dating to the late 19th century. Our solicitor tells us that this right has been devolved to subsequent properties using the road, either explicitly, by transfer of rights in deeds, and/or by continual use, known as a prescriptive right.

Thirdly, to go counter to this advice risks actionable charges. This would expose the fund and its members to legal action, something that would be highly irresponsible.

Fourthly, our insurance companies say that they will not indemnify us if a claim is based upon an unlawful action.

Those who worked with me on this report, Jamie Harcourt and Carole Kingston, having examined the legal documents and opinion, understand and acknowledge the legal opinion that it is unlawful to close the road unless those rights, namely that residences’ occupants have rights to use the whole road, to go ‘to and fro’ its whole length, at all times and for all purposes, are recognised and maintained.

We have also begun to look at various schemes to improve safety along the road.

The main issue is how to integrate the legal requirements with ensuring maximum safety along the road.

Both Thames Valley Police and Reading Borough Council have told us that we should first obtain the opinion of an independent professionally recognised person or organisation before implementing any controls, such as humps or chicanes. Amateur, resident surveys are not acceptable. Of course, we can carry these out ourselves, but the results may not form the basis for any lawful decision which would be recognised by an insurance company, or by the Police, let alone the courts.

A professional survey of the road usage would give us this information and even potentially save us money, possibly even the whole cost of the survey, when the road requires resurfacing, as the type of surface and the frequency with which the work needs to be done, are determined by the road's use and should be fact-based. We have ascertained that such a survey would cost about £1,000 to £1,500.

The committee was asked about the following:

1. Road ownership. We have not pursued this as both our solicitor and RBC advised that the actual ownership of the road does not affect its legal status, nor how the road may be managed, nor the rights and duties of residents. Only a Court Order can change any of these factors.
2. Does our insurance cover the use of the road by unauthorised personnel when the road is not locked off? As a privately maintained road, but nevertheless still a road, and not a private enclave, our insurance covers us to the extent of our remit, as specified in the Constitution, and not beyond, nor does it need to."

Susan Harcourt asked what effect JM's report would have on road safety for residents. JM felt that more detail was required on the specific issues, which might be provided by a professional road survey. Susan asked what options were legally open in terms of reducing traffic, given that the right of residents to pass to and fro on the road could not be frustrated. JM said a manned barrier would be an option as long as residents were always allowed to pass, although the costs he had been quoted of employing someone to man a barrier for a whole day (c. £300) would be prohibitive.

Sonia Eveleigh asked why Grosvenor Road could still block their road – JM replied he hadn't seen their legal advice so wasn't in a position to comment on their situation.

Andrew Taylor said he had raised the issue of road safety at the 2021 AGM and although he had initially been dismissive of JM's report on road safety, on reflection he felt that JM and the Committee were acting in good faith. He asked other residents to be open-minded on this regardless of their own views.

Tanya Pynn said she would be happy to volunteer to man any barrier in the road. JM said the police had advised that residents should not man this themselves due to possible safety concerns re being challenged by motorists and it would also be necessary to speak to the DRFA's insurers to see if they would cover anyone volunteering to do this.

Tim Peach felt the current speed bumps were sufficient and close enough to stop most motorists from speeding on Derby Road.

Chris Latto claimed there was a legal right to close the road once per year. JM said that was not legally correct and this had been reinforced by the legal opinions received thus far. JL said committee meeting minutes from 2018 stated that the gates had not been shut for some years before then and the 2018 AGM minutes also stated that legally this was required only once every 20 years.

Annie Lee felt pedestrians would be safer walking on the right-hand side of the road.

Richard Langton asked if the fact that the gate could be closed once every 20 years contradicted the legal advice that it was not lawful to lock the gates. JM confirmed that the gates could be closed as long as they are manned and residents are permitted to enter.

Adam Osman stated that there were different opinions in the room, but that the Committee must be governed by the need to act legally and lawfully at all times and should not go against the legal advice. He also stated that he had witnessed cases of physical road rage directed at the Grosvenor Road bollard and felt it might be dangerous for residents to take on the role of manning the barrier themselves.

8

Trees

JH gave a personal report: he was aware that a few residents were unhappy that the DRFA had paid for the removal of two lime trees and replacing one of them in early 2021. He said the reason for this was safety: RBC were asked to survey the trees and ruled that they be felled ASAP, and to comply with a Tree Preservation Order (TPO) the tree next to the pinch point was replaced with a new lime tree.

JH said there was potentially an issue with the responsibility for the trees that front or are adjacent to Field View properties on Derby Rd. He said a historical agreement existed between the previous owner of the land on which Field View properties were built and a previous Derby Rd Committee, which, he said, stated that if the Field View contributions were paid, the Derby Road Fund would take responsibility for those trees and verges. This left the issue of responsibility uncertain. He apologised for not having looked into this already and said he would endeavour to do so.

JH stated he had recently written to RBC to ask that they survey and act on the poor state of the large lime tree on the roadside verge in front of 1 Moss Close. He had also asked that the two large lime trees either side of the gates of the flats at 6 Derby Road be pollarded by the owners, as they had been allowed to grow very high. He said that historically, the trees and verges that front or are adjacent to Derby Road properties are the responsibility of the owner of the property facing or adjacent to it. He thanked those owners who taken this responsibility seriously.

Kathleen Child said she had tried to get the Committee of 6 Derby Road to pollard the lime trees and asked the DRFA for help. JH said he would follow up on this after the meeting.

Chris Latto asked whether in future the lime trees could be replaced by other types of trees. Helen Lambert said that some years ago, a councillor had come down the road and said many of the trees were coming to the end of their life and that replanting would be required. JH said that as far as trees with TPOs were concerned, he had been told by RBC that replacements had to be like for like, but he would speak to them again. However, not all trees on the road had a TPO on them.

David Moro asked whether the DRFA would be reimbursed by Field View for the cost of the two trees felled. JH said this was a grey area and would need to be looked into further. Andrew Taylor asked whether all FV residents had paid their full contribution this year. HS replied that no road/side road had paid in full. She said there had been considerable debate on the trees issue and that further investigation would be necessary.

Tim Peach felt that the policy adopted towards trees had not been consistent in the past and asked why the tree cut down near the Grosvenor Road junction had not been replaced. JH said he would look into this.

9

Proposed change to constitution item 3.2 – removal of ‘on payment of annual voluntary contribution’

LA explained that a resident had proposed the above change to the Constitution. Adam Osman said that last year the consensus seemed to be that if you didn't pay, you didn't vote. Joanna Hanson felt that contributing showed a commitment to the road. Andrew Taylor pointed out that some residents might be unable to pay. HS replied that the Committee were happy to speak to anyone having difficulties with payment and this had happened in the past. Andrew suggested making this point in future letters. It was generally agreed that as the meeting was not quorate for the purposes of voting in changes and there was no consensus on the issue, no vote would take place.

10

Election of committee members

Rob Halpin was leaving the Committee as he was moving away. JM stated that he would be standing down due to other commitments. However, because of the time he had spent researching certain aspects of the road, he was willing, if asked, to continue to offer advice on these issues accordingly. There was a round of applause for JM. LA thanked JM for his hard work.

LA gave the nominations for re-election: Jamie Harcourt, Jon Lloyd, Helen Savidge, Lyn Anthony-Higgins and Carole Kingston, and two new nominations for election: Sue Feather and Tanya Pynn. She asked if everyone was in favour of this or if there were any objections.

Susan Harcourt said she knew being on the Committee was hard work, but felt that some residents had spent a lot of money on their houses and their voices weren't always being heard. She asked the audience if they were happy with the re-election of the Committee members as she believed some of them had contributed to this issue, who she felt should consider their position. Katrina Lloyd said that as JL's wife, she knew how much time he had given to Committee work despite his other commitments and rejected Susan's assertion that the Committee were less pleasant or responsive to residents than previous committees had been. Adam Osman said while he didn't always agree with the Committee, he felt they were working hard and doing a good job in what were often difficult circumstances. Simon Scaddan said that as a former chair, he was impressed by the current Committee's commitment to acting lawfully. Andrew Taylor said he was aware of tensions between residents, but that there was a need for the community to come together, act in good faith and talk more. No objections were made to the election/re-election of Committee members.

11

Matt Yeo – New Councillor for Caversham Ward

JM introduced Matt Yeo, one of the new councillors for Caversham Ward. Matt said that as the meeting had been prolonged, he would keep his statement short, but that he had gained insights from the meeting into residents' thoughts and concerns. He said he would always be available to his constituents.

Meeting ended at 9pm