

Derby Road Fund

**Committee Meeting 23th August 2018 – 7.00 p.m.
Held at 3a Derby Road.**

Present:

Ian Lawson (New Chairman);
David Moro (Treasurer);
Gill Vooght;
Shirley Rennison;
Sean Mitchell;

Agenda

- Chairman's address.
- Treasures update on finances and expected expenditure.
- Actions outstanding.
- Legal position of Derby Road with respect to the fund.
- Planning Permission Requirements.
- Planned construction of pinch point arising from last AGM.
- Committee members responsibilities.
- Committee Voting structure and Decision making.
- Website and communication.
- Next meeting and AGM
- AOB

Chairman's address.

IL welcomed all committee members to the meeting. IL stated the goal of the chairman was to clarify the lawful status of the committee to request and gather the funds for the upkeep of the road in order to mitigate and legal action arising from the committee's future actions. This would be by the way of insurance policy. IL stated his time on the committee may be limited due to other work and other commitments.

Treasures update on finances and expected expenditure.

DM reported that fund contributions were still being received for the year 2017- 2018 by mainly new comers to the street. A request was made by a resident for a possible prorated payment for people moving in mid-year, this was refused and would only add more work and confusion to the Treasures duties. No objection to this was raised by the rest of the committee members. A percentage of 85% of funds have been collected this year.

As of the 07 August 2018 the fund stands at £25,015.95 following the expenditure of the road sweeping and gully cleaning mentioned in the last meeting. £229.50 and £550.00 respectively. Additional expenditure this year would be gate closure notification, signage for the later, new padlocks for the gate and then there would be the pinch point construction. IL had requested this to be put on hold. DM stated that the plastic planters had already been purchased together with signage and padlocks. This would be discussed later in the meeting.

Actions out standing

Three outstanding actions not discussed at the last meeting.

Derby Road history and possible adoption

In the absence of IL this item was postponed until an update to the progress could be obtained from IL's investigations into cost and prudence. DM to email reminder to IL along with a copy of the meeting minutes.

Following on from the AGM last week IL had reviewed his deeds and requested more historical information on the road and The Berkshire Estates Co Ltd who were former owners of the road. To the best of everyone's knowledge they no longer exist, and no such company was found on the Company House web site register.

IL proposed going forward DRF acquire ownership of the road and would be in a stronger position to obtain the funds required to maintain the road from the residents. The committee agreed for IL to obtain a quotation for engaging solicitors to undertake this work. DM to check with XX our in-house solicitor if this was a prudent course of action in addition because this would mean taking on liability for which would need to be covered by insurance.

SM requested clarification to the sequencing of events and taking non-payers to court, IL discouraged court action at this time on the grounds we would be in a stronger position if ownership of Derby Road was in place first by Derby Road Committee. IL stated this should be possible for a relatively modest sum of money.

Action with regards non-payment of Derby Road Fund fee

In the absence of IL this item was postponed until an update to the progress could be obtained from IL's investigations. DM confirmed the cheques had been banked and no further action would be undertaken in the above regard, no further correspondence had taken place with xx.

IL stated the next stage would be to gain a county court judgment legitimising our request for payment to maintain the road surface. DM confirmed we were in a strong position with regards Positive Covenant on all the land off Derby Road according to XX our in-house solicitor and the "Benefit & Burden" test case. IL stated this would be further strengthened with a county court judgment behind us.

DM requested how we best proceed with regards taking a test case to court and writing a reply letter to Xxx X. Xxxxxxxx who by the way had now paid her contribution for 2016-2017 without prejudice. It was agreed DM's reply would be conciliatory for the time being until the above was progressed. DM confirmed the cheques would be banked.

The Constitution

In the absence of IL this item was postponed until an update to the progress could be obtained from IL.

DM stated some form of constitution would be of benefit to committee members and to advise new home owner on Derby Road and solicitors as to what is expected from all parties coming to live on Derby Road. SR introduced a copy of the constitution used at Mander Court for discussion, it was reviewed and agreed a constitution between the one tabled at the AGM and this one would be more practical. IL to review and table for the next meeting.

Road reinstatement

DM confirmed no resolution with regards the major reinstatement at the junction with Grosvenor Road was forthcoming from GPL who promised to get back to Brian Farnham and have not. A verbal assurance was also given to pay for the road sweeping and gulley cleaning which again has not materialised.

IL suggested we undertake a survey of the affected road surface and obtain a report prior going back to GPL and making any further requests for reinstatement. IL to obtain quotations from surveyors to undertake the above report. DM to forward on relevant emails to IL to update him on state of play with GPL.

DM confirmed the relevant emails had been forwarded to IL for his information. In the absence of IL this item was postponed until an update to the progress could be obtained from IL.

Legal Position of Derby Road with respect to the fund.

IL status update of Derby Road

1. Derby Road was built by the Berkshire Estate Company (now defunct) it is possible to resurrect the company however it might make the new owner liable for costs.
2. Unlike Grosvenor Road we are not a private road, we are an un-adopted road.
3. We do not have the right to obstruct the road in any way however we can close the Peppard Road gate according to the deeds providing it is manned as was the gatehouse in the 19th Century. Any traffic can use the road as if it were a public road.
4. Houses with Road frontages are liable to maintain the road, those without frontages do not have to pay, the fund would have to seek a court order to enforce those houses without frontages but use the Road.
5. What do we pay the Grosvenor Road fund for using their road?

Accordingly plans to create a pinch point cannot take place as they are plainly illegal and lay us open to action. The plans to create a pinch point should be halted without delay.

Also, it calls into question the legality of the speed bumps which could be challenged in court and should any car be damaged we could be liable.

In contrast to the above and IL's understanding.

1. This is documented in most home owner's deeds and is correct. It was agreed not to pursue the adoption of the Road as advised by XX in house solicitor not necessary to request payment of Road fund. See below points.
2. This is incorrect GV tabled a Freedom of Information Request to RBC listing all private roads in the district which includes Derby Road and Grosvenor Road.
3. This is in part correct. We do not have the right to obstruct the road to residents detailed in some deeds, however as in the closure of the gates they may be closed but not locked. The use of a key operation of any description to gain passage is classed as an obstruction. However, with the agreement of all that live on Derby Road and Grosvenor Road in the past this has been waived by an AGM vote and the gates in the past have been locked and unmanned. GV stated in the thirty years plus no objection had been received to the locking of the gates. In addition, this is a requirement to keep the road private. This would also apply to the pinch point voted

at the last AGM and contrary to the last statement the public have no right of way to Derby Road or Grosvenor Road.

4. This is also partly incorrect, houses with road frontages are liable to maintain the road to halfway, but the Positive Covenants on the land remain which dictate all who use the road are liable to contribute to its upkeep: Whom so ever owns the said land (not house or property fronting on to the road) and takes the benefit of the use of i.e.: Derby Road can be held responsible for their share of the upkeep of the road to halfway. Secondly there is case law to further reinforce this in: This is a 'positive' covenant a 'burden' and so a covenant which can run with the land ref to [Halsall v Brizell](#). We would also bring to your attention a more recent case law in *Goodman and others v Elwood* [2013],
5. We pay Grosvenor Road nothing for the use of the road by way of mutual use i.e. Grosvenor Road have free use of Derby Road and vice versa.

It was there for accepted by all at the meeting to proceed with obtaining three tenders for the construction of the pinch point without further delay.

GV confirmed to the committee that no complainer or actions relating to the speed humps had been received in her thirty years of living on the road.

GV and DM had met with Xxxxxx Xxxx Chairman of Grosvenor Road and discussed a number of mutual topics and shared useful information. The coordination of the Road closures was thought to be a good thing by both parties.

DM to write to solicitors requesting a quotation for a letter of comfort confirming lawful rights to request payment following above details. Committee agreed a cost of approx. £600.00 for this service.

SM reiterated the insurance company he was with would not offer Liability Insurance to non-limited companies.

IL to recheck with his own solicitors with regards the above.

IL stated he would investigate the possibility of cover for the committee in respect of the pinch point and any other actions undertaken by the DRF committee relating to the road in the future.

Planning Permissions

DM / GV to email RBC Planning Dep and Highways to check if planning permission would be required for the pinch point and confirm DR as private.

Planned Construction of Pinch Point

DM tabled a drawing of the pinch point for the committee's approval and to request quotations. DM reported cost would be in the order of less than £1000.00, which considering GV had saved double this in the lighting conversion to LED budget allocated at the AGM was considered satisfactory.

IL offered left over material from the acoustic fence for its construction as a cost saving option.

IL and SM to request Gary Pearse and Matt Carter for a quotation. One quotation received from Four Oaks Design £420.00.+ vat.

Location at the fourth speed hump was proposed by DM and agreed by all the committee members present. The construction as detailed in meeting dated 25th July 2018.

IL requested a Method Statement be drawn up with regards the pinch point. DM agreed to undertake this task.

Committee Members Responsibilities

Ian Lawson – Chairman

Road Surface.

Constitution.

- 5.4 Chairman - will ensure that the constitution is upheld, and the resident's interests are observed, to the best of the Committee's ability. The Chairman will co-ordinate and chair the quarterly meetings ensuring that a fair and democratic decision is reached on each agenda item, or if a majority is not reached, for the agenda item chair will have deciding vote or to be put to a vote by the residents. A written annual report outlining the previous year's activities will be made available at the AGM to all residents.

David Moro – Treasurer

Road Closure.

- 5.5 Treasurer - will ensure that all funds are collected promptly, that all payments are paid promptly and that the bank account is managed in a professional manner and does not accrue any unnecessary bank charges. An annual statement will be made available to all residents during the AGM as part of the annual report. The Treasurer will issue a notice for payment of the annual Road Fund Charge during October to November each year. The Treasurer will issue a notice reminder of late payment of annual Road Fund Charges in January. Non-payment of funds by any Residence will be pursued by the Treasurer and if a debt is not cleared within 90 days of reminder latter, other residents will be made aware of the debt on the accounts.

Paula Banham – Secretary

- 5.6 Secretary - will ensure that an agenda is presented at all meetings and accurate minutes are taken and circulated to Committee members within two weeks of each meeting, for review and agreement. Once approved by the Committee, an electronic copy will be sent to any residents of the road who requested a copy and has supplied the Committee with an email address.

Gill Vooght

Street lighting monitor.

Liaison with QA re website.

Sean Mitchell

Coordination of road sweeping and gulley cleaning.

Shirley Rennison

Notification coordinator

Committee Voting Structure and Decision Making.

This is detailed in the draft constitution and operates on majority vote for both the committee and AGM. Items of large expenditure the motion will be put to the residents to vote.

- 5.9 Decisions at Committee level will be taken on the basis of a straight majority. No casting vote can be made. If a majority cannot be achieved, then the motion will have to be put to a vote by the residents.

IL proposed the chairman have the right to veto motions even on majority votes by the committee on the grounds of a greater understanding of what was lawful. This was discussed but no final agreement was reached following the explanation by IL.

Website and communication

IL commented the Derby Road website that was still up and running had the old committee members and AGM minutes, it looked old and out of date and he had received complaints from one or two people.

GV stated this had been set up by Xxxxx Xxxxxxxx a former treasurer who had left the Road three or four years ago. This had then been taken over by Xxxx Xxxxxxxx who intern had also left the road a few years ago, one had since updated it or added new content to the site.

GV said the new website was being prepared by QA's and was still to go live and she had contacted Thomas Lange the teacher at QA's requesting an update but due to the school holidays no reply had been received to date. GV to contact TL at QA's to establish progress. IL stated the committee may be able to employ the services of Caversham Prep School's website administrator, GV to check with TL if these services would be required. At the moment the website was been used as a teaching tool at QA's and was free to the road, they would also be administrating it.

DR Facebook stood at 50 members and have taken on a second administrator in addition to Xxxx Xxxxxxxx, who has left the road. This was Xxxxxx Xxxx of xx Derby Road who it was noted is still to pay her Derby Road Fund fee.

IL confirmed he had joined recently, GV was also member and was monitoring activity for the committee.

IL asked if we should not stop the issue of letters and communicate by email alone to save on time and cost? SR pointed out not all residents had internet connection or a computer. DM added only a quarter to a third of residents had provide email addresses.

Street Lighting Upgrade to LED

GV confirmed the quotations from SSE had been revised and received, it was in the order of £985.06 + VAT for the LED street light conversion of the lamps only. The second contractor Carter Electrical Installation Ltd quoted £950.00 + vat. David and Gill walked the road with Mathew Carter and explained the requirements. Mathew had a clear understanding of the work needed to be undertaken. It would seem there would only be a requirement for 8 new long lamps and two short LED lamps. There are 10 lamp posts and two noted as belonging to RBC which are relatively new. It was agreed to replace all ten including the two RBC labelled lamp posts lamps.

GV recommended placing the order with CEIL who would be able to undertake the work in the next two weeks. The committee all agreed to accept the quotation and IL would instruct GV to forward details.

GV also requested the replacement of any damaged or discoloured shades if still available to purchase at additional cost.

Next AGM

Next AGM to be at the end of March, beginning of April. 2019 similar to this year.

Next meeting programmed for 11th October 2018 approx. two weeks before fee requests go out.

Any other business

DM / GV announced that they had interviewed Paula Benham of 23 Derby Road as replacement secretary to EH the night before and were impressed by her past experience as a secretary and knowledge of living on private roads. GV proposed acceptance SM, SR seconded.

DM to prepare a letter to go out to all local solicitors reminding them of the Derby Road Fund fee, estate agents to be included in the circulation. SM to review letter before emailing.

IL confirmed his mobile :07xxxxxxxxx

Letter to Mr Xxxxx at Xxxxxxxx Xxxxxx regarding non-payment of Derby Road Fund SM to review before sending.

IL declared the meeting closed at 9.00.