

MINUTES of the MEETING of ST AUSTELL TOWN COUNCIL held on MONDAY 15th OCTOBER 2018 in the Council Chamber at the St Austell Information Service, 39 Penwinnick Road, St Austell at 6pm

Present: Councillors: Bishop, Brown, Bull, Cohen, Colwill, French, Hanlon, Heyward, Jones, King (Mayor), Lanxon, Leonard, Oxenham, Palmer, Pears, Rees, Styles, Thompson and Walker.

In attendance: David Pooley (Town Clerk), Sara Gwilliams (Deputy Town Clerk), Steve Skinner (Operations Manager).

C/18/67) Apologies for Absence

Apologies for absence were received from Councillor Pearce.

C/18/68) Declarations of interests and gifts or hospitality received

There were no declarations of interest.

C/18/69) Dispensations

There were no requests for a dispensation.

C/18/70) Minutes of Meeting held on 10th September 2018

It was **RESOLVED** that the minutes of the meeting held on the 10th September 2018 be approved and signed as a correct record.

Councillor Pears advised that he had had a number of people asking why he had abstained from voting on minute number **C/18/59** and explained that his name was **Pears, not Pearce**, and that he had not abstained from voting on that item.

C/18/71) Matters to Note

The Clerk advised that the legal agreement in respect of the grant to the Sea Cadets had been signed by the Mayor and Deputy Mayor.

Councillors Jones and Leonard arrived

C/18/72) Public Participation

The Mayor advised that before the formal public participation session, he would like Councillor Walker, Chairman of the Woodland Road Park Working Group and the Town Clerk to introduce the findings of the Working Group and the background/legalities for the park.

Councillor Walker advised that he was Chairman of the Working Group and thanked all members of the group for their hard work. He explained that the group considered the views of the school and local residents and took health and safety and legal advice from various sources. He advised that the group agreed a number of principles:

1. Not to transfer ownership of the park to the school;

2. A desire to continue with a joint use arrangement which permitted the school to use the park but retain public access to the whole of the park when not in use by the school;
3. Support and sympathy for improving the safety of pupils when on the park;
4. Support for undertaking works to repair the hedge;
5. School to retain its security fencing for security purposes and if additional fencing is provided it will be for segregation only;
6. Any new fence should not exceed 1.8 metres (6 ft) in height and not require planning permission.

Councillor Walker advised that the process had taken a lot of time and effort and he particularly thanked the Clerk for the very professional report.

Councillor Walker concluded that the Working Group could not agree on a single solution for the future joint use of the park but had identified three options for the Town Council to consider which were outlined in the report.

The Town Clerk explained the history of Woodland Road Park and showed slides of the extent of the Town Council's ownership and the location of new fences on each of the options identified. The points covered were:

- The park transferred to the Town Council from Cornwall Council on the 8th December 2016 as part of a large devolution package;
- Prior to 2009 the Park was owned by Restormel Borough Council and the school was owned by Cornwall County Council;
- The two Councils entered into a joint use agreement permitting Mount Charles School to have joint use of the park in return for a contribution towards running costs;
- Both Councils were abolished in 2009 which made the legal agreement null and void;
- In 2016 Mount Charles School ceased to be a Cornwall Council school and became an Academy and part of a Multi Academy Trust, the Peninsular Learning Trust;
- Cornwall Council granted the Peninsular Learning Trust a 125-year lease of the school premises and that lease included a clause which permitted the Academy joint use of Woodland Road Park on terms to be agreed;
- Cornwall Council and the Academy could not agree terms and had not completed an agreement when the park was transferred to the Town Council in December 2016;
- It was Cornwall Council's intention to have a joint use agreement which gave the school permission to use the park but on a shared basis with all other members of the public and with no additional fences;
- The park was held by Cornwall Council in accordance with the Public Health Act 1975 and Open Spaces Act 1906 as a general open space not as education land;
- Prior to transfer, Cornwall Council had assessed St Austell as having a shortage of public open space and Woodland Road Park as strategically important;
- It was agreed prior to transfer that Cornwall Council, utilising Section 106 monies would develop a play area in the north west corner of the park which has now been completed;
- It was a condition of transfer that if the Town Council or anybody else were to build on the park a significant sum of money should be paid to Cornwall Council as an overage payment.

He advised that in response to the school's request to be given land for their sole use the Town Council set up a Working Group to investigate the various options. The Working Group identified three options.

Option 1

Joint use agreement allowing the school access to the park and agreeing the terms for such access.

Option 2

To allow a 1.6 metre bow top fence to run north to south at the Woodland Road end of the park. The group anticipated that sufficient gates would be maintained within the fence to allow public access outside of school hours and that the gates could be locked by the school to provide segregation between the public and the school children between 9am and 3pm.

Option 3

To allow a 1.8 metre fence around approximately half of the park, again which would be open outside of the hours of 9am and 3pm during term time to allow public access.

In both options 2 and 3 the Town Council would expect a rental payment from the school as well as a contribution towards the running cost of the park. Funding and maintenance of the fences would have to be negotiated.

The Mayor thanked Councillor Walker and the Town Clerk for the background information and invited Members of the public to speak.

During the public participation section, the following observations, comments and concerns were raised by the head teacher, teachers, parents of the school and members of the public supporting option 3.

- The need to protect the children of Mount Charles School whilst using Woodland Road Park;
- The heightened safeguarding requirements following high profile cases;
- The school's legal responsibilities for ensuring childrens' safety;
- The benefits of fresh air and regular exercise for school children;
- The need to carry out risk assessments on the park;
- The difficulties of trying to teach children in the park whilst having to keep an eye on other users of the park;
- The need to prevent unsafe interactions with strangers and animals on the park;
- The need to protect children from litter, dog fouling and broken bottles;
- The lack of safe green space for Mount Charles School;
- The unsuitability of hoop top fencing;
- Support for Option 3 within Cornwall Council's Education Department.

The following comments were raised from members of the public supporting either Option 1 or Option 2.

- The lack of green space in St Austell;

- The generations of families that have enjoyed Woodland Road Park in its entirety;
- The potential to create a public space that would be too small for football and rugby groups to train if the park was fenced off as indicated in option 3;
- The reliance on Woodland Road Park that local residents with small or no gardens have;
- The lack of litter and dog fouling in the park;
- An increase in use of the park since the play equipment has been installed;
- Concern that the park would be unusable for large scale community events if fencing were to be erected;
- The potential for a park keeper to oversee the management of the park.

The Mayor thanked the public for their comments.

C/18/73) Woodland Road Park

Members discussed the three options and raised the following issues/observations and concerns:

- Concern at the lack of space left available to the public in option 2 during school hours;
- Concern that the type and height of the fence proposed in option 2 is not approved by Cornwall Council's Education Department;
- The need to have double gates for any option to allow the grounds maintenance staff access to cut the grass;
- The need to find an option that allows both the children and residents use of the park;
- The need to improve the hedges around the park;
- Acceptance that the legal agreement between Restormel Borough Council and Cornwall County Council is null and void;
- The need to arrive at a mutually agreeable solution for both parties;
- Acceptance that the erection of either fencing solution will not prevent litter or anti-social behaviour in the park;
- The erection of either type of fencing will not prevent children from hearing or seeing anti-social behaviour in the park;
- The installation of any fencing should be at the cost of the school;
- Disappointment that the school is not currently contributing towards the grass cutting costs;
- Any future agreement should incorporate rental and/or grass cutting contributions from the school;
- Concern about dog faeces and what the dog ban arrangements on the park are;
- Concern as to whether or not the Air Ambulance could land in the park if fencing were to be erected;
- The need for there to be a public record of how the Councillors voted;
- The need for a decision to be made and any delegation processes to include the Mayor and Deputy Mayor;
- Mount Charles School is at a disadvantage with regard to easy access to green space compared to other schools in the town;
- The school children's safety must be a priority during decision making;
- Cornwall Council have no authority over the Peninsular Learning Trust;
- Option 2 would provide a large space for the children and segregation from the public whilst also providing full use of the park for the public when not in use;
- The proposed 6ft mesh fence outlined in Option 3 is out of keeping with the existing hoop top fencing;

- The need to do safety checks regardless of whether fencing is in place or not;
- The shortage of green space in St Austell as outlined in Cornwall Council's open spaces strategy;
- Reluctance to split the park up;
- The need to formalise the current arrangements as detailed in Option 1.

Councillor Walker circulated the following proposal to Members:

1. St Austell Town Council enter into a joint use agreement with the Mount Charles School (Peninsula Learning Trust)
2. A Committee be set up with representation from the Town Council and the School to review management arrangements
3. The Town Clerk be asked to draw up suitable terms of reference and standing orders
4. The School be permitted to construct a bow-top fence no higher than 1.6 metres across the park in the position indicated in the report for Option 2;
5. The position and number of gates, locks and signage be agreed prior to commencement of works
6. The School to permit public access to the fenced area at times to be agreed
7. The School to pay a reasonable contribution towards running costs (to be agreed in advance by the Committee) and to reimburse the Town Council's legal expenses.
8. No works to be commenced until a joint use agreement is completed and all works to be carried out in consultation with, and to the satisfaction of, the Town Council's Operations Manager

Councillor Pears agreed to second the proposal if the following could be added:

- Clarification on the height and type of fence needed;
- Advice of the Cornwall Air Ambulance as to whether or not they could land on the site with fencing erected at the location detailed in option 2.

Councillor Bull proposed an amendment to the proposal, seconded by Councillor Palmer as follows:

1. St Austell Town Council enter into a joint use agreement with the Mount Charles School (Peninsula Learning Trust);
2. A Committee be set up with representation from the Town Council and the School to review management arrangements;
3. The Town Clerk be asked to draw up suitable terms of reference and standing orders;
4. The School be permitted to construct a 1.8 metre mesh fence with gates, in the position indicated at Option 3 in the report on the proviso that the school opens the gates out of school hours;
5. The position and number of gates, locks and signage be agreed prior to commencement of works;
6. The School to permit public access to the fenced area at times to be agreed;
7. The school to pay the running costs for the area that they want to use;

8. No works to be commenced until a joint use agreement is completed and all works to be carried out in consultation with, and to the satisfaction of, the Town Council's Operations Manager.

Councillor Heyward proposed an amendment, seconded by Councillor Leonard as follows:

That option 1 should be adopted and the Clerk should be authorised to:

1. Enter into a joint use agreement with the school or multi academy trust with a service charge to be agreed;
2. Undertake repairs to the hedge on the southern boundary;
3. Improve signage in the park including signs to ban dogs from the park;
4. Put in place improved litter management arrangements as soon as the existing waste contract can be economically terminated.

The Mayor advised that a recorded vote would be taken and that the amendments would be dealt with in reverse order.

Voting for Councillor Heyward’s amendment (Option 1) was as follows:

<u>NAME</u>	<u>FOR OR AGAINST</u>
COUNCILLOR BISHOP	Against
COUNCILLOR BROWN	Against
COUNCILLOR BULL	Against
COUNCILLOR COLWILL	Against
COUNCILLOR FRENCH	Against
COUNCILLOR HANLON	Against
COUNCILLOR HEYWARD	For
COUNCILLOR JONES	Against
COUNCILLOR KING	Against
COUNCILLOR LANXON	For
COUNCILLOR LEONARD	For
COUNCILLOR OXENHAM	Against
COUNCILLOR PALMER	Against
COUNCILLOR PEARS	Against
COUNCILLOR REES	Against
COUNCILLOR STYLES	Against
COUNCILLOR THOMPSON	For
COUNCILLOR WALKER	Against

The amendment was lost by 4 votes to 14.

Voting for Councillor Bull's amendment (Option 3) was as follows:

<u>NAME</u>	<u>FOR OR AGAINST</u>
COUNCILLOR BISHOP	For
COUNCILLOR BROWN	For
COUNCILLOR BULL	For
COUNCILLOR COLWILL	For
COUNCILLOR FRENCH	For
COUNCILLOR HANLON	Against
COUNCILLOR HEYWARD	Against
COUNCILLOR JONES	Against
COUNCILLOR KING	Against
COUNCILLOR LANXON	Against
COUNCILLOR LEONARD	Against
COUNCILLOR OXENHAM	Against
COUNCILLOR PALMER	For
COUNCILLOR PEARS	Against
COUNCILLOR REES	For
COUNCILLOR STYLES	Against
COUNCILLOR THOMPSON	Against
COUNCILLOR WALKER	Against

The amendment was lost by 7 votes to 11.

Voting for Councillor Walker's proposal (Option 2) was as follows:

<u>NAME</u>	<u>FOR OR AGAINST</u>
COUNCILLOR BISHOP	For
COUNCILLOR BROWN	Against
COUNCILLOR BULL	Against
COUNCILLOR COLWILL	Against
COUNCILLOR FRENCH	Against
COUNCILLOR HANLON	For
COUNCILLOR HEYWARD	Against
COUNCILLOR JONES	For
COUNCILLOR KING	For
COUNCILLOR LANXON	Against
COUNCILLOR LEONARD	Against
COUNCILLOR OXENHAM	For
COUNCILLOR PALMER	Against
COUNCILLOR PEARS	For
COUNCILLOR REES	Against
COUNCILLOR STYLES	For
COUNCILLOR THOMPSON	Against
COUNCILLOR WALKER	For

The proposal was lost by 8 votes to 10.

Councillor Brown proposed that voting on the three options identified be undertaken using a cascading voting process (as described in Standing Order 8) and that the winning option be adopted by the Council.

It was **RESOLVED** to vote on the three options using the methodology proposed.

Councillors voted as follows:

<u>NAME</u>	<u>OPTION</u>
COUNCILLOR BISHOP	Option 3
COUNCILLOR BROWN	Option 3
COUNCILLOR BULL	Option 3
COUNCILLOR COLWILL	Option 3
COUNCILLOR FRENCH	Option 3
COUNCILLOR HANLON	Option 2
COUNCILLOR HEYWARD	Option 1
COUNCILLOR JONES	Option 2
COUNCILLOR KING	Option 2
COUNCILLOR LANXON	Option 1
COUNCILLOR LEONARD	Option 1
COUNCILLOR OXENHAM	Option 2
COUNCILLOR PALMER	Option 3
COUNCILLOR PEARS	Option 2
COUNCILLOR REES	Option 3
COUNCILLOR STYLES	Option 2
COUNCILLOR THOMPSON	Option 1
COUNCILLOR WALKER	Option 2

This voting method resulted in:

- 4 votes for option 1
- 7 votes for option 2
- 7 votes for option 3

The Mayor advised that Option 1 would be struck off the list and a fresh vote taken.

Councillors voted as follows:

<u>NAME</u>	<u>OPTION</u>
COUNCILLOR BISHOP	Option 3
COUNCILLOR BROWN	Option 3
COUNCILLOR BULL	Option 3
COUNCILLOR COLWILL	Option 3
COUNCILLOR FRENCH	Option 3
COUNCILLOR HANLON	Option 2
COUNCILLOR HEYWARD	Option 2
COUNCILLOR JONES	Option 2
COUNCILLOR KING	Option 2
COUNCILLOR LANXON	Abstained
COUNCILLOR LEONARD	Option 2
COUNCILLOR OXENHAM	Option 2
COUNCILLOR PALMER	Option 3
COUNCILLOR PEARS	Option 2
COUNCILLOR REES	Option 3
COUNCILLOR STYLES	Option 2
COUNCILLOR THOMPSON	Abstained
COUNCILLOR WALKER	Option 2

This voting method resulted in:

9 votes for option 2
7 votes for option 3
2 abstentions

The Mayor declared that Option 2 was the chosen Option and that Councillor Walker's proposal, as amended, be adopted.

C/18/74) Dates of Meetings

It was noted that the date of the next Town Council meeting is Monday 22nd October 2018.

The meeting closed at 8.39pm.