



Datchworth
PARISH COUNCIL
SERVING THE COMMUNITIES OF DATCHWORTH, BULLS GREEN, BURNHAM GREEN & HOOKS CROSS

Datchworth Parish Council

c/o Datchworth Village Hall

52 Datchworth Green,

Datchworth,

SG3 6TL

Tel : 07938743424

3rd April 2024

Present: Cllrs Sara Miller, Dean Goodman, Charles Groves, Mark Light, Viv Marshall, Pat Perry, Mike Sims.

In attendance: Andy Short (Parish Clerk), Tony Charles (part of the working group) and 4 members of public

Minutes of Datchworth Extraordinary Parish Council Meeting

held on Tuesday 2nd April 2024

Datchworth Church Hall at 7pm

EPCM24-04/01 Apologies

To receive and accept apologies for absence, Cllrs Florence, Norman and Wood.

EPCM24-04/02 Interests

- a. To receive declarations of interests from Councillors on items on the agenda.

None

- b. To receive written requests for dispensations for declarable interests.

None

- c. To grant any requests for dispensations as appropriate.

None

EPCM24-04/03 Update easement at land adjacent to Coltsfoot Lane.

Cllr Miller introduced the working group and gave an overview of its work to date. She referred to the minutes and briefing notes (available on DPC website) in nine meetings since June 2023.

DPC has met the developer, but we have reached a stalemate, and his and our solicitor Nockolds are now in contact.

Many residents of Bulls Green believe that the prospective reduction of the enjoyment of Bull's Green dictates that the development should not go ahead. The developer has planning permission and believes that he needs no further permission or easement to undertake the development. DPC holds that even if some lawful permission has been granted (which is debatable), an easement from DPC is required before building work may be lawfully started.

There is a strip of previously unenclosed land adjoining the metalled carriageway over which any easement may need to be granted, there is no permission to build a driveway, and a piece of land at the back of the land has no permission. DPC has stated that these issues, along with developer securing splay visibility lines, must be addressed, and have sought progress subject to several conditions.

DPC must act in the best interest of the whole parish and its residents. We must act lawfully, and if an easement is to be granted, we must act, by law, to maximise the consideration for that agreement (in line with Stokes vs Cambridge).

The process started 3-4 years ago, and DPC has tried to make progress by setting up a working group and seeking to agree Heads of Terms in November, with 4 conditions precedent. The primary condition is that DEFRA confirms in writing that it is satisfied that the enjoyment of common ground would not be unacceptably affected by the construction of the driveway.

We have received a 16-page letter with 50 attachments from the developer's solicitor, stating his intention to start work. We in turn have instructed our solicitor to ask the developer to give an undertaking that he won't undertake any work before 30 days, allowing our solicitor to prepare our response to the letter.

A resident spoke of community celebrations on the common ground (and later confirmed he'd share photos with DPC) and hopes that common land will be protected for the benefit of all residents and future generations. Principles of enjoyment of common land revolve around whether people can cross the land, and whether any part of it is enclosed, and whether there is any alternative.

The historical ownership and enclosure of the land has been complex and contested, as is the validity of the alleged conveyance granting permission (which seems to have been lost, though those terms appear to have been repeated elsewhere).

Legal costs on both sides – DPC and the developer – are likely to be high if an injunction is sought. DPC's insurers are assessing the case to establish whether/how much our legal work is covered by our policy.

Similarities and differences between several other cases on Datchworth Green the Bull's Green case were discussed.

One resident spoke of her disappointment to learn of the Heads of Terms details via an overheard conversation in a social setting. The heads of terms were agreed in a full council meeting on 28th Nov and a briefing note outlined the document's content. DPC feels it has been open and transparent, though not proactive in informing local residents. We have not released details of finances (our exploratory settlement suggestion, or the cost of legal advice) but otherwise feel we have been open. Cllr Goodman to act as liaison between DPC and local residents.

DPC confirmed it was unaware of the yellow lines, presumably to indicate a dropped kerb, until a resident informed us, and we cannot be sure work won't be started. If/when residents see any activity, they will notify DPC immediately who will in turn contact our solicitor to discuss a legal remedy to stop the work.

Resident asked whether DPC can impose conditions to protect the drive from over-development (such as a step or wall). DPC confirmed a deed of grant, if granted, would allow construction and maintenance, to cross and recross and run services, in line with planning permission. The land will remain property of DPC.

DPC awaits legal advice. We must assess the risks associated with NOT agreeing to an easement (subject to conditions), as well as the responsibility of protecting common land from development.

It was noted that, if they wish, resident(s) can write to DEFRA to propose the common land should not be altered, to protect their view of the continued enjoyment of it.

Ratification

Resolved, proposed Cllr Miller, seconded Cllr Goodman, six votes for (Cllr Groves abstained)

1. to ratify DPC's response as per the briefing note; Coltsfoot easement April 2024.
2. to agree to proceed initially as proposed in Nockolds email sent 25th March 2024 at 12.26pm (circulated only to councillors and the working group because it is legally privileged).
3. to seek further council agreement if necessary.

Actions

Action: DPC to share legal advice (with legal privilege content withdrawn if necessary) at the Parish Council meeting on 30th April.

The meeting closed at 8:40pm

Chair: Sara Miller _____

Date ___/___/___