

Gainford & Langton

MINUTES OF PARISH COUNCIL MEETING

THURSDAY 11 MARCH 2021 (Virtual platform)

COUNCILLORS: L. Johnstone (Chair), S. Hannan, M. Charge,
J. Grundy, J. Coomer, R. Roff, S. Platten, A. Smith, R. Logan
Clerk: M. Clark

In attendance: Teesdale Mercury

33 members of the public, 2 Cllrs from Staindrop Parish Council, Staindrop Clerk

Before Public Participation Cllr Johnstone read out a statement on the council's current position following the proposal made at the meeting of the 3 March and the 'call in'

Public Participation:

Members of the public presented their comments and expressed their views on the council carrying on with the legal challenge, raising finance through the crowdfunding page recently established, and some of those present questioned the call in motion and challenged councillors.

Concerns over the financial implications to the council with questions on the costs were also brought up.

Due to the nature of the questioning, Cllr Coomer declared his intention to immediately resign his position.

The Clerk advised Cllr Coomer, the Chair, and members that if he so wishes he could remain as a councillor and take part in the meeting as he had not tendered his resignation in the prescribed manner (in writing to the Chair). Cllr Coomer respectfully declined to take part in the meeting.

AGENDA

1. APOLOGIES FOR ABSENCE:

No apologies were tendered.

2. DECLARATION OF INTERESTS:

Cllr Hannan referred to her stated decision to give £100 to the crowdfunding

Resolved – That Cllr Hannan's declaration be noted.

3. RESOLUTION CALL IN

3.1 Under Standing Order 8(a) a resolution of the council can be reconsidered given a special motion being received in writing and signed by 3 councillors. It is considered that the call in has been referred to the Proper Officer in the required manner by Cllr's Roff, Coomer & Charge.

3.2 The Call In submitted was to dispose of the resolution below in order to discuss and clarify the council's position in more detail.

The resolution of 3 March 2021:

Should the council not receive public pledges in excess of £10,000, at a date no later than 3 weeks from this meeting to support the application to Judicial Review, it will not progress the matter further.

The Chair invited Cllr Roff to present his concerns to the council for discussion.

Cllr Roff explained that he had taken advice from a senior specialist planning partner in a global law firm. The issue of the parish council and the Aarhus Convention was discussed. The advice was the Convention only applies to members of the public or group. There was every indication the Parish Council as a public body, would not be able to make use of Aarhus Convention to limit its liability to protect against the opposition's costs in a JR. The parish council could be looking at up to £75,000 should it be unsuccessful.

Cllr Roff referred to the services the council may not be able to maintain - grass cutting, litter picking, maintenance of play park, and the support for community events would be at risk. He believed the risks to the council are significant and they had not previously been properly discussed.

Summary of the discussion that took place:

- Cllr Johnstone and Cllr Hannan referred to the advice received from counsel of a different opinion on the Aarhus Convention.
- Cllr Grundy raised concerns over the personal liability of councillors. His research led him to believe councillors could in fact be liable. The Clerk informed the meeting that he could not give a definitive view of liability as he had received contradictory information. Reference was made to Section 265 of the Public Health Act 1875 and Section 111(1) of the Local Government Act 1972 that provides ancillary powers to local authorities that may permit them to indemnify members in relation to particular decisions or acts. The 2004 Order restricts indemnities on decisions that could be seen as reckless. This could lead to members being liable.
- The Clerk had spoken on this issue to an auditor who referred to the risks of deciding to commit finances without the full knowledge of the costs and implications. He further advised members that the research shows that there was no clear answer found to date.
- Cllr Johnstone referred to her own research and advised members that providing the decision is made lawfully then councillors would be indemnified.
- Cllr Hannan referred to the advice from the barrister of a 75% chance of success and that Aarhus would be applicable to the council. Cllr Hannan also referred to the cost of the preparation of the 'bundle' being in the region of £5000 to this council.
- Cllr Charge asked for it to be recorded that he is against the planning but to have his, and other councillor's integrity questioned before the meeting was unacceptable. He is concerned about the risk and the worry over liability.
- Cllr Smith felt it right that the risk and exposure to the whole parish needs to be considered and taken seriously.

- Cllr Roff believes the option for a community group that is not the council would receive the protection from the convention and could be financially supported by the parish council. This would possibly be equally true for Staindrop Parish Council. Community group led challenges.

- Reference was made to the idea that the council could start the action but then hand it on to a community group. This was not considered an option in process or law.

Following the discussion, the following motion was proposed by Cllr Smith:

In addition, the council should take up the offer to open a dialogue with Raby.

The motion as proposed was seconded by Cllr Logan and carried.

Cllr Charge sought to ask Cllr Coomer to consider his resignation as a valued member of the council. Cllr Smith supported that sentiment.

Cllr Johnstone, as Chair acknowledged the position and agreed to contact Cllr Coomer directly.

Meeting closed.

Signed.....

Dated.....

