



You are duly summoned to a meeting of the Property Committee on Wednesday 19 February 2020 at the Billingshurst Centre commencing at **7.30pm**. Members of the public are welcome to attend this meeting and speak for a maximum of three minutes about an item on the agenda during the Public Session at the discretion of the Chairman.


G.C. Burt
Clerk to the Council

13 February 2020

AGENDA

1. Apologies for Absence.
2. To receive Declarations of Interest and notification of change to members' interests.
3. Approval of the Minutes of the Property Committee meeting held on 20 November 2019, previously circulated, to confirm and sign the minutes as a correct record.
4. Matters Arising – **not separate Agenda items**
5. Public Session
6. To consider adopting a policy relating to private gates onto Council land - Appendix A.
7. To adopt new Terms & Conditions of Hire Policy – Appendix B.
8. To consider appointment of Christmas Lighting contractor – Appendix C.
9. To consider making request to F&GP Committee to fund (using CIL):
 - a. Mill Lane Public Conveniences
Baby-change units in other two cubicles (Currently only in disabled cubicle. Suggested by public.)
Dusk-dawn light units on the outside + new coat hooks. (Suggested by public.)
Total cost £1,334.43
10. To receive an update from Cllr Barry Barnes on remedial action required following refurbishment of Trim Trial surface.
11. To receive property updates, for information only - Appendix D.
12. Any other matters for information only
13. Next Meeting: **22 April 2020**

14. Exclusion of Press & Public

15. Leaseholder issue – appointment of surveyor - Appendix E.

Committee Members: BB, PB, GC, SD, DH, SK, RM.

Members of the public should be aware that being present at a meeting of the Council or one of its Committees or Sub-Committees will be deemed as the person having given consent to being recorded (photograph, film or audio recording) at the meeting, by any person present.

BILLINGSHURST PARISH COUNCIL

PROPERTY COMMITTEE

WEDNESDAY 19 FEBRUARY 2020

PRIVATE GATES ONTO COUNCIL LAND

REPORT BY CLERK

FOR DECISION

Following the recent creation of a gate from a private dwelling onto Council open space, Councillors asked for clarification on what action the Council can take.

NALC's Legal Topic Note on the subject has been previously circulated and is attached again fyi.

Ian Davison from Surrey Hills Solicitors suggests the following options:

Greg

The law and my general advice on neighbours' accessing the council's land remains good. My advice, as will know, goes further:

- (a) do nothing and there is a risk that the neighbour will acquire a right by long term prescription*
- (b) do nothing physically but warn the neighbour of your ownership*
- (c) take steps to prevent access by legal and physical means*
- (d) consider the grant of a licence (outlined in the LTN)*
- (e) consider the grant of an easement*

Ian Davison

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Mindful that anything the Council does needs to be applied fairly and not discriminatory, the Committee is invited to decide what action, if any, it wishes to take.

April 2011

PRIVATE ACCESS TO COUNCIL LAND

1. Many councils find that properties they own abut the gardens of private residences. Sometimes the owners of these residences wish to have direct access to council land which they facilitate by, for example, putting a gate in their fence. The situation is particularly common when the council land in question is a recreation ground.
2. For a council anxious to curb or control this practice, a number of questions need to be asked and answered.
3. First, it is important to check the status of the council's land so far as the public is concerned. If the public have no statutory rights of access over the land, as will be the case if the land is a playing field, then it is obviously easier to take appropriate action since entry to the land will, without the council's permission, be a trespass (subject to any implied licence which is discussed below). Even if the land is a public recreation ground, however, unwanted access may still be prevented by legal action, because the council is entitled to restrict the points or times at which access to the land is given.
4. Secondly, it is necessary to know what physical barriers exist at the boundary point. If the only barrier is the resident's own fence, then in the absence of any covenant to repair he cannot be prevented from creating an opening in it, or even putting in a gate but that, in itself, does not **authorise** his entry on to the council land. If on the other hand, the fence or hedge belongs to the council then any attempt to create a gap can be prevented by legal action, since it is a trespass to the fence and, possibly, criminal damage. Sometimes it is not clear who owns the boundary fence or hedge, in which case the council might have to consider an additional obstacle in the form of a further fence on its own land, an approach which can also be used where the gap appears in the resident's own fence.
5. Thirdly, the council may not wish to prevent access altogether but simply ensure that the resident does not, by the passage of time, gain a legal right of access. A failure

by a council to do anything for 20 years might cause a legal prescriptive right to be created. An acknowledgement in writing from the resident that he has an access only by the continuing permission of the council would prevent him acquiring a legal right. For further information on this please, see LTN 47 (Easements).

6. A suitable form of words for such an acknowledgement is as follows:

"This agreement between the (insert name) Parish/ Community Council and (insert name and address of resident) dated (insert date) records that (insert name of resident) and the members of his family residing at (insert resident's address) may, with the permission of the council have access by foot only to and from the council's land known as (insert name, description and address by which land is known and any necessary identification) at the point (this should be described and clarified by an attached plan marking the points of access) where the council's land adjoins (insert resident's address), on the understanding that such permission is personal to (insert name of resident) and the members of his family residing at (insert resident's address) and may be withdrawn at any time by the council.

Signed: (Resident)

Signed: (2 members of the council)"

7. In practice it will be much easier to obtain the above acknowledgement where the resident is seeking a new permission. If access already exists, a council seeking to regularise the practice should first attempt to get the resident to sign a similar agreement to the above. If that fails, then the subsequent action by the council depends on the facts of the particular case, and the reasons, if any, why the resident refuses to sign the acknowledgement. Consequently, such problems should be referred to NALC for individual advice.

Implied Licences

8. The above advice holds good for most property owned by councils but particular care should be given in respect of some types of land to which the public may have some rights of access. An example of one case is *Wandsworth London Borough v A* which was decided by the Court of Appeal in 1999. The facts of the case were that A's son attended a school in Wandsworth which was owned and run by the council. A was allegedly aggressive and/ or abusive towards members of staff and, consequently, A was banned from entering the school by the headmaster. A refused

to accept that she was barred from the school, and the council sought an injunction restraining her from entering upon the school premises.

9. The court decided that A, together with the other parents, had some sort of licence to enter the school because parents were permitted (or encouraged) to come into the school. The court also held that the relationship between a school and a parent was such that a parent could not be excluded from school premises without any regard to public law. Importantly, the court also found that the headmaster should have given A an opportunity to make representations before he banned her from the premises and the failure to do so meant that the decision to exclude her was flawed and unlawful.

10. The practical consequence of the decision in the Wandsworth case is that councils should consider whether individuals have some sort of right to visit premises (e.g. an implied licence) before taking a decision to ban them. If individuals do have a right to enter premises, councils should allow them to make representations before making a decision as to whether or not to exclude them from premises. NALC recognises that it is not always easy for councils to recognise whether individuals have an implied licence to enter premises and, therefore, recommends the following steps. Either:
 - councils should seek from NALC in individual cases; or
 - councils should assume that all individuals have rights to enter premises and should consult with them before withdrawing that right.

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
42	Occupiers' Liability	Distinguishes between visitors and trespassers and the legal duties owed by councils as occupiers of land.
44	Trespass to Land	Sets out some powers of councils to deal with trespass.
47	Easements	Sets out the circumstances in which rights of way may be acquired through long use.
77	Public Rights of Way	Sets out the rights and responsibilities for a Footpath, Bridleway, Byway Open to All Traffic (BOAT), or Restricted Byway.

BILLINGSHURST PARISH COUNCIL

PROPERTY COMMITTEE

WEDNESDAY 19 FEBRUARY 2020

TERMS AND CONDITIONS OF HIRE OF PUBLIC OPEN SPACES

REPORT BY CLERK & OFFICE MANAGER

FOR DECISION

Early in 2019, a request was received to hold an event in Station Road Community Gardens during December. From the very beginning it was stipulated that there were to be no vehicles on site, given the time of year. This stipulation was agreed to by the organiser. The requirement was stipulated again later on during further email exchanges. As with all events held on Parish Council land, Risk Assessments and copies of Public Liability were requested and these should have been submitted by 1 November. Despite chasing up, the information did not arrive until 2 December, less than two weeks before the event. Disappointingly, when the information arrived, it was clear from the layout that the Council's request for no vehicles on site had been completely ignored as the site layout included food wagons being placed on the grass and it stood to reason that these stalls could only be put in place by vehicles crossing grass areas. Officers reminded the organiser of the stipulation they had previously agreed to and sent a suggested alternative site plan.

Following various telephone conversations, the Clerk was forced to compromise and allow stalls to be placed on the paths instead so as to prevent the grass from being damaged.

Subsequent advice was sought from HDC as to whether they allowed vehicles on their grass areas and the following was received:-

"I have outlined below our policy for car parking on public open space. The majority of requests are for the use land in Horsham Park, and only occasionally on other sites. We do not allow vehicles onto the grass from the end of September until (at least) the end of March, and later if the grass is still wet. The only exception would be if we had had no rain and the ground was still firm. We get very few requests for events outside of the summer season as there is too much of a risk of the event having to be cancelled. We have a Conditions of Hire document which is sent to all potential hirers, which lets them know that we have the right cancel an event at any time, and they also have to pay for re-instatement of the land if they cause any damage. If we did have an application for an event in the winter that relied on vehicles being taken onto our grassed areas then the application would be refused (unless vehicles parked on hardstanding areas only)".

To assist officers process future such applications, the Committee is invited to consider the draft *Terms & Conditions of Hire of Public Open Spaces* below, which is based on HDC's own conditions.



TERMS & CONDITIONS OF HIRE OF PUBLIC OPEN SPACES

GENERAL

1. These provisions concern the use of public open spaces administered by Billingshurst Parish Council (hereinafter referred to as 'the Council'), in connection with organised events.
2. The Council has a Fee for Hire of Open Spaces Policy which includes information on the cash deposit required for the hire period. Details of such charges will be notified on first enquiry or when applications are received. Such sum will be returnable to the hirer subject to a deduction of any expenses incurred by the Council in respect of making good any damage to the Council's land or property caused by the event.
3. Car parking on site is subject to the discretion of the Parish Clerk & Office Manager on behalf of the Council and is determined according to the nature of the event and the time of year in which the hirer wishes the event to take place. In order to avoid damage to the Council's land and/or property by reason of adverse weather conditions which have occurred prior to the event taking place, the Council may withdraw such parking provision. Please note: Applications for events on Council land between September and March each year which require vehicles being taken onto grassed areas will automatically be refused.
4. The Organiser shall be responsible for reinstating the site forthwith on the termination of the event and shall remove all refuse/litter. In particular, any holes created by the erection of fencing, or by any other cause, shall be filled in and any ruts/fuel spillages etc cleared up with the site being left in a clean, tidy and safe condition for all users.
5. When hiring Council land, the hirer is expected to observe exemplary standards of behaviour and conduct with regard to safeguarding children and vulnerable adults. The hirer is responsible for being fully aware of issues concerning the safeguarding of children and vulnerable adults. Any possible risks involved in proposed activities must be considered by the hirer and appropriate action must be taken to protect everyone involved.
6. These conditions of hire are subject to the hirer familiarising themselves with the Council's bylaws and undertaking that their event does not in any way contravene Council bylaws.

7. Any hirer of open space, undertakes to ensure that no living creature is put on display for offer as a prize at any event held on public open space land.
8. The Council may at any time require the cancellation, postponement or modification of the event should such action be necessary in order to avoid damage to the Council's land and/or property by reason of adverse weather conditions which have occurred prior to the event taking place. In this event, the Council will not be liable to pay compensation to the hirer.
9. The Council may in its absolute discretion refuse to permit any event to take place without being obliged to state reasons therefore.

CONDITIONS OF HIRE

1. Any charges for the use of Council land (including the deposit) are payable in cash on the date stated in the specific terms and conditions letter sent to hirers, but in all cases, no later than 14 days prior to the event.
2. The hirer will provide a Health & Safety Risk Assessment specific to the event to be emailed to the Parish Office on the date stated in the specific terms and conditions letter sent to hirers. In all cases, no later than 14 days prior to the event.
3. The hirer will provide an Event Management Plan specific to the event including a layout plan of the site to be emailed to the Parish Office on the date stated in the specific terms and conditions letter sent to hirers. In all cases, no later than 14 days prior to the event.
4. The hirer will provide an up to date copy of their public liability insurance certificate which must be valid on the date of the event and include any set up/take down dates as required. Any hire of Council land is subject to the public liability insurances indemnifying the Council against all third party claims arising from the event. If the hirer has other stalls/exhibitors etc (as in the case of the Billingshurst Show), then the hirer shall ensure that each other party is aware of and adheres to these conditions of hire.

By completing and signing below, the hirer/organiser agrees to these Terms & Conditions of Hire.

Name or Organiser:

Group, Club or Organisation:

Date:

BILLINGSHURST PARISH COUNCIL**PROPERTY COMMITTEE****WEDNESDAY 19 FEBRUARY 2020****APPOINTMENT OF CHRISTMAS LIGHTING CONTRACTOR****REPORT BY CLERK****FOR DECISION**

Light Angels have provided the Village's Christmas Lighting for the past 4 years. The initial contract was for 3 years.

In autumn 2018 SSE/WSCC decided that energy could no longer be taken from lampposts for decorations not on lamp posts, causing considerable additional costs and work for the Council to arrange alternative supplies. As a result of this upheaval, Council resolved to extend Light Angel's contract for 2019 also. It was the intention to seek fresh tenders in 2020.

However, in autumn 2019, SSE/WSCC decided that any contractor working on its lighting columns must have an accreditation known as HERS (Highway Electrical Registration Scheme). Light Angels did not have this.

Investigations revealed few contractors had this accreditation that would be interested in installing decorative lighting. WSCC suggested SSE could do such work for us, but SSE said they weren't interested in any additional contracts!

Fortunately, Light Angels managed to get the accreditation at the 11th hour, meaning our features on lampposts were installed later than the rest of the display. (In 2018 they installed the icicle lights across the Sainsburys and Royal Mail frontages just days before Christmas, after repairs were completed following the Sainsbury's ATM ram-raid.)

Light Angels have consistently provided a first class service to the parish, which after the experience with a previous contractor, was a great relief.

The Council's Financial Regulations state that

11. Contracts

11.1. Procedures as to contracts are laid down as follows:

a) Every contract shall comply with these financial regulations, and no exceptions shall be made otherwise than in an emergency provided that this regulation need not apply to contracts which relate to items (i) to (vi) below:

iv. for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the council;

d) When applications are made to waive financial regulations relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the council.

h) When it is to enter into a contract of less than £25,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out in paragraph (a) the Clerk or RFO shall obtain 3 quotations (priced descriptions of the proposed supply); where the value is below [£3,000] and above [£100] the Clerk or RFO shall strive to obtain 3 estimates. Otherwise, Regulation 10.3 above shall apply.

The Committee is invited to

1. Waive Standing Order 11.1(h) and rely on Standing Order 11.1(a) iv and 11.1(d) and appoint Light Angels to provide decorative lighting for Christmas 2020, 2021 and 2022.
2. Invite Light Angels to suggest variations and improvements to the existing lighting scheme for consideration by the Council, mindful of the budget provided.

BILLINGSHURST PARISH COUNCIL**PROPERTY COMMITTEE****WEDNESDAY 19 FEBRUARY 2020****PROPERTY UPDATES****FOR INFORMATION****1. Station Road Gardens.**

- Drugs were found at Station Road Gardens in late January, these were handed in to the Neighbourhood Wardens and a report made to Sussex Police online. A request was also put forward to Sussex Police via social media and email asking for their presence at Station Road Gardens on a more frequent basis given that drugs are being found on site.

2. Lower Station Road Recreation Ground.

- Due to very poor weather in November and early December, the entrance enhancement works were delayed and instead started in early January. Following comments from residents and members of user groups online, the Clerk has agreed with contractors to install a temporary track across the recreation ground for when it becomes necessary to close the vehicle entrance entirely.
- Contact was received from a member of the Tennis Club who asked for assistance with how to arrange for brown tourist directional signage to the clubhouse at Lower Station Road. The contact was referred onto WSCC.
- A letter was received from the Billingshurst Show organising committee who have requested use of the ground over the weekend of 27th & 28th June. Provisional permission has been granted subject to the Terms & Conditions of Hire policy being implemented.
- Officers have arranged for full reinstatement of the hedgerow in the south western corner following a boundary dispute and correct realignment of the neighbouring fence.
- Non-slip slats were installed across the Parbrook bridge to further improve safe use of the facility. A renewed coat of non-slip paint was painted on the slopes at either end of the bridge.

3. Jubilee Fields

- Officers received notification from the Angling Society that the suspected Norfolk Reed has been removed from the Fishing Lake.
- An email was sent to the Chairman of the BSRA to advise that Cllr. Sandy Duck had come forward to be a Council representative on the Sports Association.
- Some very bad damage occurred to the fencing and a picnic bench at the front of Jubilee Fields pavilion in mid December. The BSRA were approached by the person who had caused the damage and all was made good without the need to involve Sussex Police.
- The Office Manager contacted HDC to enquire about s106 funding availability for the BSRA. Unfortunately, there isn't much in the way of allocated funds that would be

applicable but the BSRA could consider making an application to the parish for funding from the neighbourhood proportion of CIL which has been transferred from HDC. The Planning Support Assistant at HDC confirms that there would be some funds coming in from DC/13/0735 in several instalments which may assist the BSRA with plans they have in the future.

4. **Trees**

- When the Parish Council had its 5 yearly tree survey carried out in 2018, some trees could not be fully checked as they were in full leaf. Following recommendations given by the tree consultants, a number of trees were further inspected by the Council's tree surgeon and reports sent back to the Consultants. The consultants carried out a further inspection in January of this year whilst the trees were bare of leaf; their follow-up report has been received and the Office Manager is working her way through the recommendations and remaining recommendations for works required within 2 years of the original tree survey. Some of these works require TPO applications and/or applications to trees that fall within the Conservation Area. One such application relates to a tree in Clevelands Gardens for which the consultants have recommended felling works. Enquiries have been made with HDC to carry out works to fell the tree to a certain height and perhaps enquire about having the top of the tree made into a wildlife carving rather than felling completely. A further update will be given in due course. The Council will also need to consider the planting of another replacement species nearby.
- One of the cherry trees along Cherry Tree Walk in the High Street was replaced by WSCC as it had died.
- In the course of preparing the Neighbourhood Plan, the issue of tree planting was raised by residents wanting to know what the Council was doing to help mitigate climate change. The Council has resolved to use £5,000 from the CIL funds at its disposal and residents have been asked to submit their suggestions by way of a sketch map by the end of February. Suggestions have been coming in thick and fast and these will be considered by WSCC's Arboriculturist in due course.
- A request for a memorial tree was received from the children of a gentleman who always enjoyed walking his dog at Jubilee Fields. The suggestion of a London Plane tree was agreed and the tree is due to be planted this spring.

5. **Billingshurst in Bloom**

- This spring, Baskets in Bloom will be installing the 'living roof' on the brick bus shelter in the High Street which is hoped will enhance the Village's entry into South & South East in Bloom.
- Discussions are ongoing with WSCC with regards to the placement of planter(s) on the pavement adjacent to the side entrance of Truffles Bakery.
- During November, Billingshurst WI planted a huge number of crocus bulbs at the Centre. An article in the Village Tweet is being written to thank the ladies for their efforts and it is hoped that these will flower soon.
- Consideration is being given to the suggestion of seasonable planting on or around the brick 'Billingshurst' brick gateway features leading in from the A272 towards Scats Roundabout.

6. **Litter Wardens**

- A hedge-trimmer was purchased for the Litter Wardens who had commented on a number of occasions last summer that they would benefit from having some equipment to tackle bushes/hedges around the village obscuring signs.
- Officers are in the process of purchasing a replacement pressure washer.
- Officers are arranging for the Litter Wardens to undergo training in the erection of the scaffolding tower in the Centre's Main Hall.

7. **Christmas Lighting**

- As a result of further stipulations from WSCC this season, it was necessary for the Council's Lighting Contractor Light Angels to arrange for a HERS registered installer to fit the motif lights on lampposts in the village. The lighting scheme was erected on Monday 25 November and included a tree which was donated by a resident who was having a tree removed from his garden. A letter of thanks was sent to the resident on behalf of the Council.
- Light Angels provided excellent service again during the last Christmas season and the office received a number of positive comments again about the lighting scheme.
- See separate Agenda item.

8. **Manor Fields**

- A 'perch' style bench was fitted on site at Manor Fields during January. This followed a request from residents after new children's play equipment was fitted at the site.

9. **Cherry Tree Close**

- The Litter Wardens reported a damaged bin near this site which was removed by HDC in January.

10. **General**

- *Men Sheds* provided the Council with a selection of bird boxes, bat boxes, a bug hotel and an owl box for placing in and around the parish. These will be installed by G. Nye Tree Surgeon in due course.
- WSCC gave permission for the placement of a bench at the junction of Silver Lane and East Street, provided by the Wednesday Group. The bench and hard-standing were installed by Sussex Land Services in late January.
- A new battery was fitted on the Applied Sweeper machine during December.
- A resident contacted the office raising concerns about a pathway which crosses from Cleve Way onto the Church Path and how the edge of this pathway was considered to be a trip hazard. The Office Manager reported the pathway to Hyde Housing as it is likely to have been installed at the same time that the Cleve Way development was built. A further update will be given in due course.

- Adversane Hall Trustees have advised the Council that they are having the drains improved at the hall to lessen ongoing blockages and improve future capacity.
- The Council improved its award in the 2019 Loo of the Year Award process by receiving a Platinum Award! Officers are investigating the suggestion of further baby-change units in the other cubicles and it is hoped that this will improve the award still further. The Clerk has also received a number of letters from a resident raising various concerns about the toilets. The Clerk is arranging for a quotation for better coat hooks in the toilet cubicles following one of the requests.
- The Planning and Environment Committee was asked to consider adoption of the telephone box at Station Road Gardens but have declined the offer. They would, however, like to ask the Property Committee to consider the installation of further general waste and a recycle bins on the site of the box once it has been removed by BT. However, in line with Council Policy on such requests, this will be forwarded straight to HDC for consideration.
- Officers have over 3 years repeatedly reported issues to WSCC with regards to damaged and missing wooden fencing that leads from the bridge that spans the bypass and the wiggly path leading down to Jubilee Fields, alas to no avail.
- Officers have reported to HDC damage to the bypass path which appears to be being caused by people riding horses along the pathway. The Neighbourhood Wardens have also been made aware.

The Committee is invited to note this report.