



**Minutes of the Extraordinary Meeting of Billingshurst Parish Council
Tuesday 16 September 2025
7pm at the Billingshurst Centre.**

Present

Cllrs Paul Berry (Chairman), David Hingamp, Craig Jones, Trevor Leonard, James Marchant, Anna Rhodes, Kate Rowbottom, Steve Thomas and Doug Waller.

In attendance

G C Burt, Clerk to the Council

R Plant, Assistant Clerk

Dis Cllr J Trollope

Approximately 34 Members of the Public

75/25 Chairman's Announcements

The Chairman advised that:

1. The meeting was being streamed to the internet.
2. Cllrs wishing to speak should raise their hand and speak loudly and clearly.
3. Mobile phones should either be switched off or silenced.

76/25 Apologies

Apologies for absence were received from Cllrs Faye Algar, Phillip Day and Craig Gale for approved reasons. On the proposal of Cllr Paul Berry seconded by Cllr Doug Waller **RESOLVED** that the apologies and reasons given be accepted.

No apologies received: Edna Bengier, Sandy Duck and Jeremy Harris.

Adjournment for

77/25 Public Session (Members of the Public may speak for up to 3 minutes at the discretion of the Chairman).

Prior to inviting the public to speak, the Chairman read out the following statement:

I know I said as much at the last meeting, but it is worth reiterating this evening that the Parish Council is not the enemy of the trees, neither I think is the District Council and certainly not the homeowners. The enemy is a system where Tree Preservation Orders seem to be so easily pushed aside, a system which encourages insurance companies to take the quickest and cheapest course of action when it comes to matters relating to trees, rather than the best, most moral and most environmentally friendly course of action. From the Parish Council's perspective, the subject is about so much more than just trying to save the trees in Willow Drive, it is also about managing potential future risk to the Council, and to local taxpayers' money. I think the Council stated its position about the trees quite early on in the process by objecting to Horsham District Council to the planning applications to fell them. Applications which we know were granted, thus paving the way for the trees to be

felled. Councillors received a copy of a very long and detailed letter from Richard Buxton yesterday, so I'm not sure if they have all had time to read and digest it. It does of course come from a position of trying to save the trees, whereas the advice received from the Council's advisers to date comes from a position of trying to protect the Council, and public purse from possible future risk. The trees had been due to be felled this week. This was postponed due to the agreement between AXA and the Council not being ready, and the need to hold this meeting tonight.

Sarah Medes da Costa read out the following which she had previously submitted:

I would like to start by saying that arboriculturalists, tree surgeons, and insurance companies etc are not qualified to make bat reports! It is indeed difficult to capture bats on film due to low light conditions, they are nocturnal mammals after all. Pipistrelles are very small and fast! There won't be any nests as bats don't build nests! Bats do, however, use echolocation that can be and has been recorded and converted to wavelengths that can be heard by the human ear. The recent dusk survey done by 4 members of the Sussex Wildlife Trust* has shown that it is "very likely" that bats are roosting in the Willow Drive Oaks. In the conditions to fell, there needs to have been "thorough checking" that there are no bats currently roosting in the Willow Drive Oaks (or indeed in the past.) This would entail a bat survey by a qualified professional. An initial bat licence requires knowledge of bat ecology and 100 hours supervised bat survey work. These licences are granted by Natural England – who advise the government on all things environmental. A qualified ecologist would check the suitability of the site for Bat Roost Features, then would undertake a direct inspection of suitable roosting sites – this would entail ladders, ropes, possibly mobile elevated work platforms, and the use of torches and thermal imaging or endoscope cameras. It would be illegal for a non-qualified person to do this, as there is a potential to disturb bats. One ecologist (of 20 years' experience with bats) I was in touch with said "from the photographs you kindly provided (also sent to the PC), and the age and species of tree impacted, I would expect such evidence to have been collected" The two laws that are in danger of being broken should felling take place: The Conservation of Habitats and Species Regulations 2017 (amended) – Regulation 43 "*it is a criminal offence to damage or destroy a breeding site or resting place of a bat (bats do not have to be in occupation at the time)*" Wildlife and Countryside Act 1981 (as amended) Section 9 "*it is a criminal offence to intentionally or recklessly disturb a bat occupying a structure or place used for shelter or protection*" *It is a criminal offence to intentionally or recklessly obstruct access to any structure or place used for shelter or protection by bats*"

District Cllr John Trollope read out the following:

It is fair to ask, as I have heard some do, "why now?" Isn't "Save Billi Oaks" attempted intervention a bit late? This has been going on for several years after all. Quite simply, it was a nearby resident who called me in early July to tell me of his great disquiet at seeing tree felling contractors assessing the trees. I quickly got in touch with Mela of BilliGreen as I knew they would be interested in this and our group "Save Billi Oaks" started to emerge quite quickly. It took us time though to get up to speed with the facts which included having to file freedom of information requests from HDC. We then starting doing bat surveys but we then needed a professional to ensure the validity of our findings. We also needed an environment solicitor but he is not working *pro bono*; we therefore had to raise the money

which also took time. Several in our group have been working more than 20 hours per week on this since early July such is our determination not to lose these Billingshurst assets to corporate cost cutting.

When we started, we quickly contacted both HDC and BPC to find out what on earth was going on. Both were very sympathetic but felt helpless against the pressure being brought on by AXA: "John, you risk exposing Billingshurst taxpayers to having to pay 100s of thousands of pounds, is that really what you want to do?"

Whilst this advice is well intentioned, our solicitor Richard Buxton cites case law to show that this is simply not the case; rather the courts take a constructive approach and do not expect trees simply to be felled unless necessary. He further describes "coming to the nuisance" stating the land has been used for the trees much longer than the extension. Even if the trees are contributing to the nuisance, the liability is shared with the insurance company.

Further, the decision to remove the TPOs was taken without doing a CAVAT report. We commissioned a professional surveyor and we rather think that their value of roughly £310k would have changed people's thinking on this thus avoiding the situation we are in today. If felled, we demand that BPC be compensated this sum; no amount of "replacement trees" is anything we should accept as a community.

Others have spoken of bats so I won't. Suffice it to say that we do not accept a bat survey being done by the company felling the trees but rather an independent specialist.

The law giving the insurance companies the upper hand must change and IT IS changing. Councils are fighting back and winning.

Removing the trees for AXA's benefit is not defensible; doing so would leave an ugly wound that would take more than a generation to heal.

Again "why resist now?" I think we have acted with great care, professionalism, efficiency and speed. We have shown, I feel, to a reasonable degree, certainly far more than the "balance of probability" that the insurers need to show for felling, that voting to refuse our demand for a 6 month delay would put BPC at great risk of making an irreversible, wrong decision.

A delay is just that, a delay. If despite all this they need be felled, then it can still happen. However I am certain that this will not be the case.

Jack Masters read out the following:

I'm a parish councillor for West Grinstead & I work occasionally in Billingshurst, down at the Billi Tap. Your village, & its community are brilliant, & there's much to be proud of. Billingshurst means a wooded hill, & underlying it is a geology of thin, sandy clay & thicker, heavier Wealden clay. This clay geology is typical of most of the Weald between the South and North Downs, & gives older buildings their characteristic slumps: like in the Billi Tap & at the Windmill in Littleworth. The cause of this is many years of subsidence

& heave, it happens irrespective of the presence of trees. There's a few points I want councillors to consider before Item 6 tonight.

You cannot indemnify against breaking the law: Regulation 43 of the 2017 Conservation of Habitats & Species Regulations & Section 9 of the 1981 Wildlife and Countryside Act specify that it's a criminal offence to damage, destroy, disturb or obstruct the roosting site of bats. No clause in a contract produced by any insurance company protects this body here. There is no precedent in Sussex that I am aware of, of any parish-level local authority being successfully taken to court by an insurer who demonstrated legal liability for something on their land damaging a property. If we get to a stage of judicial review, we are ready & believe we have subsequent evidence to demonstrate failings by AXA & officers in regard to a selective picture being painted of these mature oaks to you. We don't want to get to this stage, but you're surely aware with the prominence of this issue now that no shortage of people will speak up with us about the strength of concern.

Not enough work done investigating potential risks: heave, flooding, this doesn't cover the PC. One of the many aspects where the Dobson report fell short was zero mention of heave. Heave is the subsequent uplift, caused by the resetting of moisture in a soil, after the disturbance or removal of something which was crucial in stabilising the underlying geology. To be clear, removing two mature oaks in an urban setting such as this, without any consideration of heave or subsequent claims made by adjoining properties regarding heave is highly bizarre - I note that conditional to you agreeing the felling, AXA have agreed to waive any claim made by the current policyholders against the PC. What this doesn't cover you from is claims by adjoining properties, or subsequent homeowners, or if the current homeowners switch insurance firms. Please don't allow yourselves to be pressured by an amoral institution chasing their own bottom line without your parish's best interests at heart.

Also important is flooding: no one has been considering that the two trees lie near the top of a slope, & that their root systems, their large crowns and complex canopy, all with a high water demand, actually mitigate the amount of surface runoff through intercepting heavy rainfall on its leaves and branches, & also serve to lower the water table with their high demand of water, therefore stopping the surrounding soil from swelling excessively in winter. Short of quarrying the entirety of the Sussex Weald and replacing it with a more impermeable, or undulating bedrock, we can't stop heave. We can underpin poorly built properties, however & holding off for such an approach is absolutely the right thing to do.

Emotional angle: I could reel off statistics about nature deprivation, how the UK is the most nature deprived country in Northern Europe & pockets of the South East are the worst within that, I could tell you that the value of mature oaks cannot be replaced by planting 2 more, 10 more, 100 more trees - these are irreplaceable assets & keystone species within our surroundings & they have little formal legal protection, compared to a property which was recklessly extended hundreds of years after these trees grew out of saplings on a small hillside in what became Billingshurst. They are the last remnants of a massive, ancient forest, & should be viewed as treasured historical artefacts & a vital life support in a time of collapsing biodiversity and climate breakdown, not given the chop cynically to stop insurers paying out for irresponsibly constructed properties. We have the backing of district

councillors and our MP. We've lost far too many of our ancient oaks in Sussex, a second CAVAT estimate from WSCC's own arboriculturalist estimated the combined worth of these trees to be in excess of what you've already been given, a number which in terms of amenity value, far exceeds any cost for any work.

Barry Dickinson read out the following:

This subject has been described by many as complex and the number of words written and spoken seems to rise exponentially. We are getting bogged down in the detail not helped by the various sometimes conflicting and confusing advice by so called experts.

Apologies for the pun, but we are in danger of not being able to see the wood for the trees.

I don't mean to be flippant, but the more I have read and the more questions I have asked, the situation has in my mind at least become clearer.

We have a situation where the root zone of two oak trees probably extends into three houses in St Gabriels Rd and one house almost under the trees in Willow Drive. I moved into St Gabriels when the houses were built in 1981 and moved in 1990. A friend who has lived nearby in that road since the houses were built said recently that he had no knowledge of any significant subsidence issues in that area. He also said his recollection was that because of the clay the houses had foundations of 2 metres.

So, the trees and houses have apparently co-existed without issue for 44 years except for this one small, single storey, extension at no.8 built subsequently, with according to reports significantly shallower foundations of 700mm or less.

The remedy would appear to be a proper underpinning of the extension, paid for by Axa, so that it has the same resilience as the main house structure, perhaps for additional protection incorporation of a root barrier around the extension only. The remaining structures in the area it would seem have already demonstrated their resilience.

Thus, the householder is protected, the Parish Council can get on with their normal business and the oaks can remain indispensable for another 200 years.

Felling the trees opens the possibility of a whole new can of worms, with legal implications, for example, continuing sub soil movement and disturbance of protected species like bats, which do not make visible nests, so a thorough inspection must be undertaken for signs like urine and droppings.

I urge the Parish council to decide not to take a decision tonight other than defer matters until further consideration is given to outstanding questions and alternative solutions.

Accumulating adverse publicity and public pressure may well give Axa cause to reflect and seek compromise solutions.

Trevor Chittenden read out the following:

I came to the full council meeting in July and asked the council what we, the public, could do to support the council in their stated preference to save the trees. Since then, we have been monitoring the trees for bats and have provided the Council with good evidence that there is a high likelihood of bats roosting in the trees. We have paid for a valuation of the

trees using the CAVAT method and given that to the council. We have raised funds through crowdfunding to hire a solicitor experienced in these matters who has written to the Council highlighting a legal way of challenging Axa's request. Alongside these things, there is an online petition with almost 2500 signatures, articles in the local and national press, items on local radio and support too from our MP. All this has been done, despite being told by some that nothing could be done, and it is being done in the spirit of supporting the council to get Axa to consider options which do not involve cutting down the trees. Chairman, we had a brief conversation at the flower show last month and both of us acknowledged that money was central to this issue. So, let's focus on the money. To fix that extension by underpinning, we are talking about a few tens of thousands. A figure quoted in some of the reports is £50,000. The value of the trees in the CAVAT report, £310,000. If money is your guide, let that sink in for a moment. We have already done a lot to support you and we can do more. We and you need time however. Please give us and yourselves that time.

Melanie Parker read out the following:

Tree maintenance. It says that the trees in Willow Drive are 'owned and maintained by the council.' Please can you clarify what maintenance has been received in the last five years. I note that the report for the meeting on 3 September says inspections are undertaken annually but your insurer's representative stated that 'I am aware that tree maintenance was comprised of generally ensuring the good health of the tree, and not in respect of its continued growth to a size which has ultimately created a tree root nuisance situation'.

Tree surgeons advise mature trees like these should be pruned every 3 to 5 years as part of the maintenance. There are trees in the close vicinity to these two oaks which have been pruned in the past 5 years and which aren't appearing to cause issues. Furthermore, the 9 September report states that pruning the trees would make them 'a mere shadow of [their] its current self'. Have the residents of Billingshurst or the councillors here been asked if they would accept this situation as an alternative to complete destruction? Lastly with regards to maintenance the report says that 'drastic work would be required near-yearly to prevent the tree growing significantly'. What evidence is there for this? I repeat tree surgeons say a mature oak needs pruning every 3 to 5 years – that is not 'near-yearly'.

Root barrier. It appears to me this option has not been investigated fully. In the letter from your insurer's representative they do state that they have been advised that 'the installation of a root barrier would be highly problematic'. However, they continue that the claimant's solicitor's surveyor has not, and I quote, 'provided...any written report....on that aspect'. Surely this is a huge omission. The 9 September report says that a root barrier 'would need to extend across several gardens. This would require the co-operation of several homeowners'. Has this been explored?

Bats. Your own solicitor has highlighted the fact that although HDC gave consent for the trees to be felled there were conditions attached which, and I quote 'have not yet been met and which the claimants are refusing to undertake in particular a bat survey'.

In response to any comments that arborists have looked for bats I direct you to the advice of Natural England, which says that you may need a qualified ecologist to undertake the survey and that 'you should ask for a survey where roosts are likely and where the tree is...an ancient or veteran tree.' It is also an offence to damage or destroy bat roosts and also to 'obstruct access to any structure or place used for shelter or protection.' Natural England continues that you should ask for a survey when work is likely to 'negatively affects bats or their roost habitats' and also their 'foraging and commuting habitats'. The claimants and their insurers are thus, and I quote your solicitor again 'in breach of the planning conditions'. The unresolved issues regarding tree maintenance, root barriers and bats means that the felling of these healthy, life-giving veteran trees should not go ahead.

Resume Meeting

78/25 Approval of the Minutes of the Meeting held on 3 September 2025.

The draft minutes of the meeting held on 3 September 2025, previously circulated, were taken as read. On the proposal of Cllr Doug Waller, seconded by Cllr Craig Jones **RESOLVED** that the minutes be accepted and signed as a correct record accordingly.

79/25 To consider the future of two trees at Willow Drive.

The Clerk had tabled a report giving an update on the situation regarding the trees at Willow Drive. The draft agreement (copied to Councillors only) setting out the terms should the Council be willing to fell the trees now included the requested indemnity against future claims from the affected property. The report contained recent advice from the Council's insurer and solicitor. The Clerk had recommending accepting the agreement, subject to the inclusion of an indirect consequential loss indemnity and *bona fide* bat survey. However, the Council had received the previous day, a solicitor's letters sent on behalf of local residents, giving notice that should the Council resolve to fell, then the residents would seek an injunction to prevent the felling. The Clerk advised that in the circumstances it would be prudent for the Council to defer making a decision.

Cllr James Marchant highlighted the many aspects to the Council's role in this matter: tree owner, local authority, neighbour, duty to council taxpayers etc. some of which were conflicting. He highlighted some of the precedents set in other tree cases. He would like to see the matter deferred for 3 months pending further information.

Cllr Trevor Leonard in arguing the case for a *bona fide* bat survey, said the fact that the claimant's representatives kept referring to bat nests, proved that they knew nothing about bat surveys as bats don't nest! He also reaffirmed the point about the relevance of the CAVAT formula for pricing the amenity value of trees. He was still concerned about the liability for any heave damage to the affected and other properties should the trees be felled.

Cllr Doug Waller wasn't convinced that all the alternatives to felling had been adequately investigated.

Cllr Kate Rowbottom said she had personal experience of root barriers which had proved successful.

Cllr David Hingamp said that one solution that had not been looked at by the parties was the use of geopolymer injection to fill cracks in the building. He highlighted the inadequacy of the foundations of the structure in question. He mentioned also about the TPOs being lifted. (Clerk advised that the TPOs had not been lifted.)

On the proposal of Cllr Paul Berry, seconded by Cllr James Marchant **RESOLVED** that in light of correspondence received yesterday on behalf of a group of local residents expressing concern about the proposed felling of the above two trees, and intimating a judicial review if the Council proceeds without giving the contents of their letter proper consideration, the Council **DEFER** making a decision pending further legal advice.

80/25 Date of Next Meeting – 5 November 2025.

Meeting finished at 7.47pm