

HOWE GREEN COMMUNITY ASSOCIATION

WESTLAND SUB-COMMITTEE MINUTES

Date: Tuesday 1st December 2009

Venue: 9 Chalklands

Present: David Pearson
Richard Spooner
Vic Morgan
Paul Bullock
Martin Cross
Caroline Travis
Dave Dennison
Mick Piper (Minutes)

Mike Kirkham - TPS
P. Tremelling
R. North

Kevin Dormer – ExB
Ian Price
Ross Price

Duration: 8-00 p.m. – 10-00 p.m.

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HGCA Committee had some pre-discussion re the way forward prior to the arrival of TPS and ExB syndicates.

Ross Price (RP) spoke on behalf of ExB. He is planning to buy “Evanwell” from Kevin Dormer who is going to Australia, hence his interest. He explained that ExB had been talking to Chelmsford Council for years with a view to putting a Meeting House in Howe Green, and their plans to put one on the “Evanwell” site had been turned down due to strong objections from neighbours. He went on to say that their main interest in the Land was to buy it to prevent it getting into the hands of travellers. He added that they were not speculators and did not eye the land for commercial opportunities, but if they bought it and it helped them to get a meeting house in Howe Green all well and good. They were asked why they wanted a meeting house in Howe Green as they had one in Sandon. RP said that there were quite a few Brethren in Howe Green and with the Southend meeting house closing they needed more space. Concern was expressed about the size of a proposed meeting house. RP said that they were typically quite small, with a footprint of 70 sq m. or 700 sq. ft. Concern was expressed that although the meeting house may be small, there would be a lot of cars used by people attending the meeting house. RP said the meetings were only twice a week and most people walked to attend the meetings.

RP explained that the Brethren work on their own (hence their name “Exclusive Brethren”) and

would not join in with anybody else to buy the land.

It was mutually agreed that it was silly for HGCA and ExB to bid against each other and RP wanted to know to what level HGCA were prepared to bid. HGCA/TPS did not want to say exactly how much money was available for the bid, but assured ExB that it was in excess of £90,000. RP said that if that was the case, there was no way that ExB would go that high, so they would not attend the auction. The ExB members left the meeting at this stage.

Discussions continued with TPS. It was explained that Mike Kirkham (MK) had joined TPS, and that Neil Whitelaw had stepped down from the syndicate. The reason for this was that MK has a direct interest in the land as his ex-wife lives in "Richmond", and Neil Whitelaw's house is not adjacent to the land so he has no direct interest in owning it.

MK took on the role of TPS syndicate leader and expressed different and strong views to previous discussions between HGCA and TPS. MK stated that TPS now had £130,000 available to bid for the land. He claimed to have had a lot of experience in dealing with travellers and bidding for land, and as he was personally putting so much in he did not want someone else bidding for him. Basically he thought that his plans could be frustrated if the person bidding for HGCA did not get it right; further MK would be willing to commit to more money on the spot at the auction if he had to react to hostile bidding.

MK rejected the discussions that had gone on between HGCA and TPS leading up to the draft Heads of Agreement. He felt that it was a nonsense for HGCA to lead a HGCA/TPS consortium, to buy the land and then transfer it at cost to TPS with covenants attached. He felt that this was too complicated and would keep their respective lawyers in jobs for months.

The "covenants" were discussed; in general both HGCA and TPS were satisfied with the covenants (subject to a bit of tweaking) and it was agreed that if HGCA bought the land they would apply the covenants, and if TPS bought the land they would apply the same covenants. Further discussion of covenants was therefore deemed unnecessary.

MK insisted that TPS themselves bid, and that the HGCA £80,000 be available to TPS if it was necessary to bid over £130,000. In other words, TPS would be able to bid up to £210,000 making use of the HGCA fighting fund, and if necessary MK would go above £210,000 putting more of his own money. It was noted that this method had been discussed before, but it had been rejected as HGCA would have had no control over the covenants and HGCA would have required a cast-iron legal document outlining how its funds were to be used and the assets/benefits accruing to HGCA. HGCA could not pledge its subscribers £80,000 without a clear written understanding of its position, and there was not enough time to draft a suitable legal document.

HGCA said that it might be able to do this if a legally-binding understanding of what it got back from pledging its funds to TPS could be agreed. MK stated that it was simple, if TPS had to draw on HGCA's fighting fund, say for example TPS bought the land for £210,000 using £80,000 HGCA fighting fund, HGCA would have achieved its objective of preventing travellers getting on the land. He quoted a recent email stating that people didn't want to own scrap scrub land. Speaking for HGCA subscribers, Mick Piper (MJP) noted that in this example, TPS would own 130/210ths of the land and HGCA would own 80/210ths of the land, and further HGCA had agreed that TPS could choose which bits of the land they wanted subject to the HGCA bit not being landlocked. MK stated that we did not understand. He was not a white-knight and was not going to pay for the land to solve HGCA's traveller problem; if we contributed £80,000 to a purchase price of £210,000, TPS would own 100% of the land and HGCA's "reward" would be that it had kept the travellers off. MJP stated that there

was categorically no way that HGCA could give TPS £80,000 or any other sum and then for HGCA not to get a pro-rata share of the land. This was a NON-STARTER. Dave Dennison and Caroline Travis also spoke up for HGCA saying that such an arrangement could not be agreed to as it would be totally unacceptable to the subscribers to the HGCA fund.

Discussion around this subject continued for half an hour or so with no progress being made. Richard North expressed the concern that if the Community got ownership of part of the land, say 80/210ths as per the example above, people from the Community may insist on using the land; he thought that we might get a situation of 25 people at a time on the Community land, or even the kids of Community members causing a nuisance.

At this stage the deadlock could not be broken and ways of both HGCA and TPS bidding or attending the auction were discussed. For example, it was suggested that HGCA attend the auction and be prepared to bid, for example if TPS stopped bidding at £75,000. This was a bit academic as TPS are determined to bid up to £130,000. It was felt regrettable that the HGCA fighting fund could not be used to support TPS.

At this stage a compromise was reached whereby the HGCA fighting fund be made available to M. Kirkham personally as a secured interest-free loan repayable within three years. Thus, if TPS had to bid say £170,000 for the land, £40,000 would be provided by HGCA fighting fund to M. Kirkham personally and would be secured against the share of the land that he would be owning from the purchase.

This was felt to be a workable solution. The excess funds could be returned to the subscribers straight away on a pro-rata basis, and within three years the subscribers could look forward to the loan being repaid and getting further monies back.

The meeting ended at this point with the TPS syndicate retiring to a separate room to discuss details. The HGCA Committee undertook to draft up the wording for the three-year secured loan agreement to M. Kirkham.

It was noted that if TPS bought the land for less than £130,000 all the discussion we had had would be of academic interest as the HGCA fighting fund would not have been touched.

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