

SWT Special Full Council - 8 December 2020

Present: Councillor Hazel Prior-Sankey (Chair)

Councillors Simon Coles, Ian Aldridge, Benet Allen, Lee Baker, Mark Blaker, Chris Booth, Paul Bolton, Sue Buller, Norman Cavill, Dixie Darch, Hugh Davies, Dave Durdan, Kelly Durdan, Caroline Ellis, Habib Farbahi, Ed Firmin, Andrew Govier, Roger Habgood, Andrew Hadley, John Hassall, Ross Henley, Marcia Hill, John Hunt, Marcus Kravis, Richard Lees, Sue Lees, Libby Lisgo, Mark Lithgow, Janet Lloyd, Dave Mansell, Simon Nicholls, Craig Palmer, Derek Perry, Martin Peters, Peter Pilkington, Andy Pritchard, Mike Rigby, Francesca Smith, Federica Smith-Roberts, Vivienne Stock-Williams, Phil Stone, Andrew Sully, Nick Thwaites, Anthony Trollope-Bellew, Ray Tully, Sarah Wakefield, Alan Wedderkopp, Danny Wedderkopp, Brenda Weston, Keith Wheatley, Loretta Whetlor and Gwil Wren

Officers: Dawn Adey, Jo Comer, Lesley Dolan, Paul Fitzgerald, James Hassett, Alison North, Clare Rendell, Amy Tregellas, Tim Bacon, Martin Evans (Shape Legal Partnership), Chris Hall and Joe Wharton

(The meeting commenced at 6.15 pm)

89. Apologies

Apologies were received from Councillors M Barr, C Morgan, S Pugsley and T Venner.

90. Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr L Baker	All Items	Cheddon Fitzpaine & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Blaker	All Items	Wiveliscombe	Personal	Spoke and Voted
Cllr P Bolton	All Items	Minehead	Personal	Spoke and Voted
Cllr C Booth	All Items	Wellington and Taunton Charter Trustee	Personal	Spoke and Voted
Cllr N Cavill	All Items	West Monkton	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr H Davies	All Items	SCC	Personal	Spoke and Voted
Cllr C Ellis	All Items	Taunton Charter	Personal	Spoke and Voted

		Trustee		
Cllr Mrs Hill	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr J Hunt	All Items	SCC & Bishop's Hull	Personal	Spoke and Voted
Cllr R Lees	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr S Lees	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Lisgo	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Lithgow	All Items	Wellington	Personal	Spoke and Voted
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr S Nicholls	All Items	Comeytrove	Personal	Spoke and Voted
Cllr D Perry	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Peters	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr P Pilkington	All Items	Timberscombe	Personal	Spoke and Voted
Cllr H Prior-Sankey	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Rigby	All Items	SCC & Bishops Lydeard	Personal	Spoke and Voted
Cllr F Smith	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr F Smith-Roberts	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr V Stock-Williams	All Items	Wellington	Personal	Spoke and Voted
Cllr R Tully	All Items	West Monkton	Personal	Spoke and Voted
Cllr A Wedderkopp	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr D Wedderkopp	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Whetlor	All Items	Watchet	Personal	Spoke and Voted
Cllr G Wren	All Items	Clerk to Milverton PC	Personal	Spoke and Voted

The following Councillors further declared a personal interest:-

Councillor I Aldridge as an elected governor for the NHS Trust that covered Musgrove Park Hospital.

Councillor S Coles as he was currently undergoing cancer treatment at Musgrove Park Hospital.

Councillor C Ellis as her husband had spoken during public question time.

Councillor H Farbahi as he had attended the Planning Committee when the application on Maggie's was decided and had spoken against the application.
Councillor R Habgood as he had spoken to the campaigners who were against the development.

Councillor J Hunt as he was the County Ward Member for the Bishops Hull area which covered Galmington and he had attended the Planning Committee when the application on Maggie's was decided and had spoken against the application.

Councillor S Nicholls as he had attended the Planning Committee when the application on Maggie's was decided and had spoken against the application.

Councillor M Peters as he worked for the NHS bank of staff.

Councillor A Pritchard as his wife worked for the breast cancer care unit at Musgrove Park Hospital.

Councillor A Wedderkopp as he had spoken to the campaigners who were against the development.

Councillor D Wedderkopp as he was on the Planning Committee when the application on Maggie's was decided.

Councillor L Whetlor as she had spoken to the campaigners who were against the development.

91. **Public Participation - To receive only in relation to the business for which the Extraordinary Meeting has been called any questions, statements or petitions from the public in accordance with Council Procedure Rules 14,15 and 16**

Mrs Janet Reed spoke on agenda item 7, Sale of a portion of Galmington Playing Fields land.

Can I request that every member of the Council act in a responsible and empathetic manner regarding Maggie's Approved Planning Application. One in three of us will unfortunately get cancer in our lifetime, and the assistance of this great charity would help many. It only requires approximately five per cent of Galmington Playing Fields and the benefits definitely outweigh this loss. I do realise there is a covenant on this land and if necessary I believe that this could be changed to protect the remainder of the field. Please think carefully before you vote. Regards Janet Reed.

Mr Andrew Sharman spoke on agenda item 7, Sale of a portion of Galmington Playing Fields land.

On behalf of residents and park communities across the country, we welcome tonight's discussion on whether or not our park and its restrictive covenant are to be protected.

The trauma of the decision of "in principle" has been inflicted upon our community for nine long years and it is finally within the power of the authority to deliver an early Christmas present to us all by preventing the desecration of our public green spaces.

As you all embark on your deliberations, we remind you that there are two key issues here, both bearing no relation to the noble intent of the property developers that need to be resolved.

The first issue is the environmental precedent set if this council decides that covenants are not to be adhered to.

Andrew Hamilton-Gault had the vision in 1931 to recognise that recreational ground in the town was sparse so set about gifting a lasting legacy that many of us still benefit from today.

If this council proceeds to disregard his express wish and allow this development to proceed, similar protective covenants will fail and across this country developers will exploit the precedent set by this authority.

Given this authority has rightly recognised that we are in a climate and environmental emergency, and that it promised to be “planet positive” does it want the ignominy of being known as the Council that set such an ugly process in motion?

We know that this entire process has been flawed from the off, there has been no formal consultation with residents, promises of a new “playground” proven by the council’s own officers to be false as the monies promised “wouldn’t cover the cost of moving the existing equipment”, and the intransigence of the developer when we sought compromise means that to proceed will be reckless. The result of which is an Under 5s playground that has been left to rot and neglected for over 9 years.

We understand that the Council is acting on legal advice, hidden due to legal privilege, stating “the covenant” is not legally binding, we remind all to proceed with caution as with any legal advice it is not until the matter has been decided by a Judge that we know the true merit of that advice.

Any legal battle will be costly and time consuming for this authority as well as the reputational impacts, so we urge caution as to how much stock is invested in that advice.

We bring to your attention that Bath Rugby, acting on similar legal advice to this council, were told by the High Court Judge that the 1922 covenant was enforceable protecting the recreational ground. They were refused leave to appeal and had to pay the costs of the campaigners.

The second issue rests on public confidence in you, our representatives, and local democracy as well.

This issue has brought many people into contact with local government for the first time, the experience of many has been that the council has not conducted its business in an open and transparent manner, efforts to conceal and frustrate have been extraordinary, and for many it has left a bitter taste in the mouth.

We advise them that, while the machinery is not perfect, democracy exists and tonight is your opportunity to rebuild public confidence in the system.

We have been thankful for the input from councillors of all persuasions in our efforts and for many that strength of respect secured seats at the election.

Far too often, manifesto pledges are not delivered and this affects public confidence in our representatives. Those who do not deliver or mislead communities find that come the next election, their deception is remembered, so this is a vital opportunity for faith to be repaid.

With those two key issues covered, we wish to conclude with this message.

In 2002, their ambition was to turn the fields into a car park - this authority rightly blocked it and we were promised by you “never again”. Less than a decade later, Musgrove Park Hospital said that they had no room to accommodate something they wanted due to a lack of space.

Another attempt this time which cynically exploits a cause that many of us care passionately about, many of us have had our lives impacted by this disease, in

an attempt to emotionally manipulate us in to acquiescing to their expansion plans.

We request that you see beyond this, as Cllr. Danny Wedderkopp said at the Planning Committee “if this was a tyre factory, we wouldn’t even be entertaining this application”.

Even at that stage of the process it seemed there was no other option, but we remind all tonight that this is no longer the case.

The landscape in 2011 when this “principle” was agreed is hugely different to the one we find ourselves in today. The consequences of climate change and loss of green spaces are starting to bed in and we need to address the decisions that led to these negative impacts, the loss of our park will not be reversible or able to be compensated with money, we cannot buy our way out of every problem we face. Rebecca Pow MP has wonderfully secured funds of £500 million for Musgrove Park Hospital to redevelop their site for the future, it is now finally possible for this building to be incorporated into their current and future plans within the hospital footprint as desired.

As the charity in question is operated by architects it is not beyond their creative abilities to create a less impactful building that does not destroy forever the peace and tranquillity of our park.

Tonight it is within your power to save our park, to respect and abide by the Covenant that has protected it for future generations, and to agree to support the Hospital in finding a far more suitable home.

We wish you well for your discussions and look forward to hearing the results of your vote.

Mr Gideon Amos spoke on agenda item 7, Sale of a portion of Galmington Playing Fields land.

Chair thank you for this opportunity to make a statement to the Meeting of the Council about the proposed expansion of hospital buildings onto Galmington Playing Fields.

The plans to expand onto the playing field are deeply unsatisfactory. The hospital needs to go back to the drawing board and consider new possibilities such as an underground car park or higher buildings, especially given the very low density of much of the hospital estate, which is bound to be subject to redevelopment in any case in due course.

Even before the pandemic the respected health body the Kings Fund found Green space has been linked with reduced levels of obesity in children and young people in America (Liu et al 2007). There is also strong evidence that access to open spaces and sports facilities is associated with higher levels of physical activity (Coombes et al 2010; Lee and Maheswaran 2010) and reductions in a number of long-term conditions such as heart disease, cancer, and musculoskeletal conditions (Department of Health 2012).

The proportion of green and open space is linked to self-reported levels of health and mental health (Barton and Pretty 2010) for all ages and socio-economic groups (Maas et al 2006), through improving companionship, sense of identity and belonging (Pinder et al 2009) and happiness (White 2013).

Living in areas with green spaces is associated with significantly less income-related health inequality, (Mitchell and Popham 2008). In greener areas, all-cause mortality rates are only 43 per cent higher for deprived groups, compared to 93 per cent higher in less green areas.

All of us of course support the excellent work of the Hospital Trust and of Maggie's in supporting patients and their families – particularly given how much we have valued the NHS over the recent year, and particularly Maggie's work with cancer patients – there can be few families who haven't been touched by cancer – my own father passed too early from cancer. So this isn't a decision about whether or not we have sympathy for those with cancer – we all want to see them supported.

However, given the possibility to do that on the hospital site or at numerous sites beyond the hospital, building on a park, even if only part of park (at this stage – more could follow) cannot be assented to.

I am honoured to be a Vice President of the original Garden Cities Association, now the TCPA, which campaigned for and won the first legislation to control development based on the need for health and green space just over 100 years ago. Was it not for the priority given to healthy living conditions those first planning laws would not have been.

Finally, given that the developers are of course a hospital, you might be tempted to make an exception and allow development on a park as a one off, just this once. Please don't. My words when I began "The plans to expand onto the playing field are deeply unsatisfactory. The hospital needs to go back to the drawing board and consider new possibilities such as an underground car park or higher buildings" are not just my words, they were also the words of Jeremy Browne the last LibDem MP for Taunton Deane when the hospital last proposed to build on the playing fields. Be warned developers have a habit of coming back time and again to valuable open space until nothing is left.

I hope you will support residents, protect this piece of urban green space and reject the proposal to sell part of the park for development.

The Leader responded to all the statements.

92. **To receive any communications or announcements from the Chair of the Council**

The Chair of the Council made the following announcements:-

- She reminded Councillors to be respectful to one another during the meeting.
- She gave information on how to support the local food banks and other organisations over the festive season.

93. **To receive any communications or announcements from the Leader of the Council**

There were no announcements from the Leader.

94. **To receive only in relation to the business for which the Extraordinary Meeting has been called any questions from Councillors in accordance with Council Procedure Rule 13**

The Chair advised Councillors that no questions had been received under Procedure Rule 13.

Sale of a portion of Galmington Playing Fields land

Councillors were advised of the following before the debate took place:-
The local authority, i.e. the corporate body was the sole trustee. Individual Councillors were not 'trustees' but the management of the charity was the responsibility of the Council as a whole and responsibility and oversight rested with the Councillors.

During the discussion, the following points were raised:-

- The Leader proposed an amendment to recommendation 2.1.1, as follows:-
To discuss the terms of a lease of parcel of land at Galmington Playing Fields (as shown in Appendix D – Land Requirement) to Maggie's for the purpose of a new cancer centre.
- This was accepted by the seconder, Councillor Benet Allen.
- Councillors requested clarification as they thought the decision made in 2011 had been made by Full Council which was why the report had come to Full Council now. However, it appeared that the Executive made the last decision, so they queried which procedure was correct.
The Leader advised that the decision made in 2011 was made 'in principle' and any final decision needed to be taken by Full Council. The 2011 decision was not binding and so Councillors were being asked to look at the new recommendations and decide whether they supported them or not. The Leader clarified that a lease was still classed as a disposal of land.
- Councillors agreed that it was a difficult decision to make.
- Some Councillors suggested that the disposal of land would be best for the wider community as the use of a cancer treatment centre outweighed the use of the small section of the playing field.
- Concern was raised that if Full Council allowed the development on a section of the playing field, it would set a precedent for other playing fields.
- Many Councillors understood the importance of the treatment centre but felt they must support the community to protect the playing fields from development.
- Many Councillors suggested alternative sites within Taunton to build the treatment centre.
The Leader gave the reasons as to why alternative sites were not feasible for the treatment centre. The reasons were included in section 5.3 of the report.
- The Legal Officer gave clarification on the financial situation on the lease and the disposal of land and the relocation of the play area.
- Concern was raised on any resource being spent on investigating alternative sites.
- Concern was raised that Councillors had not seen all the legal documents on the report as they had been kept under legal privilege and that this was the first time the charity had discussed any disposal of land.
The Director for Internal Operations advised that if the trustees made an 'in principle' decision to dispose the land, the final decision would always

need to come back to Full Council. The Legal Officer advised that the charity would need to engage a chartered surveyor to give their opinion on how best to dispose of the land. He also gave advice on the next steps, which included a public notice to consult on disposal of the land.

- Councillors queried whether the legal advice was from the Charity Commission or the Somerset West and Taunton Council (SWT) solicitor. *The advice had come from a barrister employed by SWT.*
- Some Councillors highlighted that the Liberal Democrat manifesto stated that they would not build on green spaces within the area. *The Leader advised that this was not a political decision as it was the trustees of the charity making the decision.*
- The meeting was paused at 7.20pm due to loss of internet connection.
- The meeting restarted at 7.45pm and the Councillors voted to carry on with the meeting and that the webcast would be uploaded after the meeting had taken place to allow the public to view the decision that was made on the report.
- Councillors highlighted that SWT had tried to work with Maggie's and Musgrove Park Hospital to find a solution.
- Some Councillors had sat on the Planning Committee for Taunton Deane Borough Council when the application was submitted and admitted they had struggled with the decision to be made at that point.
- Councillors agreed that it was a difficult decision and that they were not comfortable with the social media campaign.
- Councillors agreed that the care provided by the treatment centre was invaluable but that all options needed to be investigated for the location of the centre.
- Councillors highlighted that it was a small section of the playing fields that would be disposed of.
- Councillors queried whether the building would be solely on Galmington playing fields or on part of Musgrove Park Hospital?
The Leader gave assurance that it was not Musgrove Park Hospital that had applied for the disposal of the land and that she would ensure that Maggie's would not come back to apply for more land in the future if the motion was carried.
- Councillors discussed the charitable assets of the trustees.
- Some Councillors gave advice on the information available on the Charity Commission website, which included the deed and the governing document.
- Councillors queried if the trustees voted against the recommendations, would that be the final decision.
The Leader advised that if the motion was lost, that would be the final decision. The Legal Officer gave clarification on a judicial review and that advice was included in the report, along with the charity law that would be followed if the disposal of land went ahead.
- Councillors highlighted that the play area required much needed investment so that the equipment could be repaired and improved.
- Concern was raised that if any of the land was disposed of, children would lose their freedom to explore the playing fields.

The Leader gave information on what help could be given for the maintenance of the play area and highlighted the support that the Ward Councillors could assist with.

- Some Councillors queried what the benefit of leasing the land was.
The Legal Officer advised that because the building would be a permanent fixture, it would need to be a lengthy lease, but that at some point, the land would come back to the charity and that the trustees could place rules on what the building could be used for in the future.
- Councillors queried how they could protect the land into the future.
The Legal Officer advised that it would require a further deed of trust to protect the land.
- Councillors queried whether the covenant was legally binding.
The Legal Officer gave advice on the covenant and that the Deed of Gift did not identify any land which was retained by Brigadier Gault. As such, the covenant was personal only to him.

Recommendations:-

That Full Council resolves to authorise Officers:

- 2.1.1 to discuss the terms of a lease of land at Galmington Playing Fields (as shown in Appendix D – Land Requirement) to Maggie’s for the purpose of a new cancer support centre; and if so
- 2.1.2 to report back to Full Council following statutory publication of the disposal for consideration of any representations received and a final decision on disposal; and
- 2.1.3 to investigate placing the remaining land into trust.

The **MOTION** was **LOST** as follows:-

44 against, 5 for and 2 abstentions.

(The Meeting ended at 9.15 pm)