

## Alwington Parish Council

### **Draft Minutes of the Parish Council Extraordinary Meeting held at the Alwington Village Hall on Wednesday, 22 March, 2023, commencing at 7.30pm.**

**Present:** Cllrs Gordon Lester (Chair), Sarah Bourke, Elaine Beresford, Neil Rothney, Alison Browning, Christine Moore and Brian Adams.

**In attendance :** 15 members of the public and Michael Olley (Parish Clerk)

#### **1. Min.59:22/23**

The Chair explained that this Extraordinary Meeting had been convened to discuss a single item, namely the claim for adverse possession of land adjoining No 10, Portledge Place.

The Chair asked all present if they consented to the meeting being recorded for use by the Parish Council for future reference, to assist preparing its response to the adverse possession claim, and if required as detailed evidence for the Land Registry.

This was unanimously agreed by the Council and attendees.

#### **2. Min.60:22/23**

**Apologies:** Three apologies were received from members of the public who supplied comments by email.

#### **2. Min.61:22/23**

##### **Declarations of Interests**

2a) No declarations were made by Councillors in respect of personal interests in this matter.

2b) Nor were any declarations received in respect of prejudicial interests.

#### **3. Min.62:22/23**

##### **Application for registration of a person in adverse possession of land adjoining 10 Portledge Place, Fairy Cross**

The Chair stated that this extraordinary meeting had been set to consider and note views in order to inform the Parish Council's response to the application. He outlined the meeting procedure and gave the background to the application. He explained that the Council's interest in the land was to explore and support any possibility to revert the large packet of land within the application to green space to form the Queen Elizabeth II Memorial Gardens.

The Chair noted that a resident of Portledge Place had emailed the Council to register support for the Council using the land as a green space as 'originally intended' Two trustees of a property within Portledge Place had emailed asking the Parish Council to note their objections to the claim for adverse possession.

A discussion followed that raised the following points:

- The three legal factors needed for adverse possession to be granted were seen as factual possession, intention to possess and possession without the owner's permission;
- A covenant in the deeds for 9 Portledge Place suggested a duty on the owners of 1 – 10 Portledge Place to maintain the garages and green space between 9 and 10 Portledge Place;
- The covenant did not specify how or when this maintenance should be done.

The Chair asked those in attendance who lived in Portledge Place if they would like to address the meeting. The points raised included:

- i. Had been resident for 11 years. Confirmed the land had not been maintained, except for safety reasons. Had not entered the land. Had been told by the Toons that they owned the land.
- ii. When first moved in, knew from their deeds that it wasn't the Toons' land. Had challenged them, which had led to arguments. This had led them to believe the Toons were bullying their way to possession of the land, and that this was not fair.
- iii. Been a resident for just under four years. Noticed the state of the land 'was a tip', only recently understood the history. Felt the community should have the land back. Mentioned the Toons' bullying behaviour which had led to people's reluctance to get involved.
- iv. Had been resident for two years. Felt this activity had led to a breakdown in trust between the Toons and the rest of the community.
- v. Had complained to Devon County Council that the surrounding trees had been blocking out light.
- vi. When the trees had been cut back in 2017/18 the land was not fenced off; now it is.
- vii. Had been resident less than five years. Had been told when buying the property that the Toons owned the land and ran a business on the land. Had photos of rats resulting from the poor state of maintenance of the land.
- viii. Had lived in the area for over 20 years and had always assumed the land was owned by 10 Portledge Place.
- ix. Very angry at the sheer audacity of stealing public land and of deliberately misleading neighbours. 'Everything we uphold in law is being thrown out with the dishwater'. Granddaughter had played on the land in 2008 – 2010. Knew the Toons did not own the land. When mentioned this to other residents had been told 'they have shown me papers that show they do own it.'
- x. Lived in Portledge Place since late 1984. The previous owner of No 10 had kept the land as an open space, mowing the lawn. The speaker's children had played on the land. His objection had been rejected by the Land Registry as groundless and had been warned by the Land Registry that continuing with their objection would involve substantial cost. Understood there was a prohibition on owners from erecting fences and that owners had a right to use the pathways included within the application.
- xi. Had known since they had moved to Portledge Place that the Toons did not own the land, however the Toons had insisted they did. Had accessed the land. The Toons had caused damage to asbestos roof of their garage.
- xii. Have accessed the land to clear the back of garage, removing the cause of damp within their garage.
- xiii. Believed the freehold owner of 10 Portledge Place was Torridge District Council, subsequently Tarka Housing then Westward Housing.

- xiv. The Toons, when challenged about the land ownership, had said they did own it, but said that the Land Registry had drawn up the documents incorrectly.
- xv. Could not object, or challenge the Toons during the Pandemic restrictions. This should be taken into account.
- xvi. An electrician had fitted a cable from the speakers house through the land in question to the garage the speaker owned.

The Chair thanked the speakers and others attending, and explained the Council would now agree a response at their next full meeting which was on 28 March 2023 at 7.30 pm in the Alwington Village Hall.