



A-barth Onan Hag Oll! Representing One and All

REPORTS FOR NOVEMBER 2017 MEETING

AGENDA ITEM 6

Clerk's Report for Meeting to be held on

21st November 2017

COMMUNICATION WITH CORNWALL COUNCILLOR

JOHN THOMAS

Decision Required:

To note and accept the content of the report.

Report:

Following the October meeting I sent the following e-mail on 20th October to Councillor Thomas:

John,

The following is taken straight for the minutes of Tuesday's meeting.

The Clerk agreed to contact Cllr Thomas to raise the following points:

- *To clarify the current position as regards Community Speedwatch as the Clerk had been informed that CS in Stithians was being dealt with by Falmouth rather than Camborne Police.*
- *To ask what form the publicity material for 20 is Plenty will take.*
- *To ask if he had spoken to the Dog Warden as he promised to do as regards what can be done about the problem of dogs entering the playing field despite signs prohibiting them.*
- *To ask if he had spoken to the relevant Portfolio Holder as he had promised to do about the changes to the bus timetable which mean that the last bus from Truro is too early.*

I await your reply!!

This was followed on 1st November by:

John,

I still await your reply to the ~~below~~.(above)

There is another matter arising from the meeting:

Joy Thomas raised the matter of problems on the stretch of road from the Penhalvean junction to Penhalurick which is narrow and winding. It is frequently used by cyclists, and those riding horses/ponies. The pony of a young rider from Carnmenellis has recently been put into a position where a car, approaching at speed from its rear, was nudged and grazed because there was another vehicle fast approaching on the uphill toward Penhalvean resulting in there being nowhere to pull in or brake in time. This situation may have been so much worse!

She has been approached to see whether there is anything Stithians Parish Council can do about getting some sort of warning to traffic to use care on this piece of road, i.e. S Bend/Slow/Ponies and Cyclists signs. As she now more frequently uses this road she can see the need for such; these bends approaching Penhalvean from Carnmenellis are at the end of a long, practically straight stretch and give the impression to motorists that it is an opportunity to drive at speed. She has advised the parent of the child to contact the BHS representative to approach this matter from the equestrian angle, and that she would draw the matter to the attention of Stithians Parish Council.

The decision of the PC was to contact yourself and The Cormac Area manager to see if anything can be done.

I now await your comments on this as well!!!

He then replied on 31st October as follows:

Hi John,

Sorry for delay in replying only it`s been an uphill struggle for me to get information from certain avenues.

The Community Speed watch programme is still in my patch i.e. Camborne, I haven`t been informed to the contrary by the coordinator.

20`s Plenty will take the form of stickers and will come in various sizes, some will be suitable for wheelie bins, there are some aluminium signs that I will purchase when I know how many are needed and how far my personal allowance will stretch.

Haven`t heard any latest info from the Dog warden regarding the playing fields, I will also chase this matter as urgent but may not know any more until I get back on Tuesday 7th Nov, if I do I will let you know.

I have spoken to Geoff Brown portfolio holder for transport and he will look into the bus time table situation, I also have a similar problem in Lanner which he has also been notified about.

New signs on the latest concerns regarding Penhalvean etc; will not be a problem especially when there is danger to any member of the public whether it involves horse riders or not, when I am back perhaps Joy and myself could have a walk around the area to ascertain exactly what is needed.

The Speed Camera at Longdowns should've been upgraded by now, despite my several emails regarding the matter to Traffic Section officer in Plymouth I have not been notified that it has been recommissioned, I will try again tomorrow.

Kind regards

John T.

JV Calvert,

Clerk

14th November 2017

AGENDA ITEM 7.1

Clerk's Report for Meeting to be held on 21st November 2017

POLICE & NEIGHBOURHOOD WATCH

Decision Required:

To appoint a Police & NHW Liaison Officer.

Report:

Following the resignation of Councillor Paul Sims, the post of Police and NHW Liaison Officer is now vacant.

I therefore request Members to consider the matter and appoint a replacement.

JV Calvert,

Clerk

6th November 2017

AGENDA ITEM 10.1

Clerk's Report for Meeting to be held on

21st November 2017

BUS SERVICES

Decision Required:

To decide upon a suitable course of action following receipt of information from Cornwall Council concerning Bus Service 36.

Report:

Following the October meeting when I advised that I would write to the Cabinet Member for Transport at Cornwall Council, I sent the following:

Dear Councillor Brown,

I understand that our local Member, Councillor John Thomas has approached you, as the Cabinet Member for transport, to express concern at the recent changes to the bus timetable which, among other things, mean that people from Stithians who work in Truro can no longer use the bus service to return home as the last bus now leaves Truro far too early.

As of Monday 18 September 2018, First Kernow introduced a new timetable for the service number 36, which plies several times a day through Stithians between Truro, Helston and Coverack. Such changes are a normal seasonal adjustment in general, but the Stithians services have remained quite stable for several years. This time, however, the village service has suffered a net reduction of one weekday service, potentially quite drastic in its effect since it concerns trips at the end of the operating day. Very little advance warning seems to have been given, the changes having been discovered by a villager only two days before the changes were introduced.

What has happened is that the erstwhile 16:45 Truro-Stithians and back to Truro service has been withdrawn. Also the former last run of the day, the 17:45 Truro-Stithians-Helston, has been withdrawn. These two services have been 'replaced' by a single one, at 16:50, from Truro to Helston. Other services through Stithians remain essentially the same as before. Would-be Helston passengers from Truro are advised to take the 17:35 to Tremough Campus, and change there to another service.

The effect of this means that passengers have lost the means to use the bus to get back from Truro at the sort of time when shops and businesses are closing. For anyone wishing to go beyond Truro by public transport e.g. Newquay, St. Agnes, or St. Ives which require a transfer between services, nearly an hour of their day out has been swept away at a stroke, making it quite difficult in some cases to visit places a little further afield (A trip to Looe for instance is no longer viable by bus and train, meaning one has to use a car, which is lamentable).

Further investigation to see if a more widespread cull by First Kernow had taken place as a result of Cornwall Council support grant cuts, the most probable scenario, showed that in general they had not, with minor timing alterations comprising the main changes. As far as I could discover, the only other services to suffer significant cuts were the 37, between Lizard-Helston-Redruth (two buses withdrawn on Saturdays), and the U2 between Falmouth-Pelean Cross-Redruth (reduced service on Sundays).

What is interesting and might have a bearing on where the money is going, is that there has been a 'reintroduction' of two late-night services between Falmouth, Tremough Campus and Truro/Treliske. These run at 01:20 and 03:00 from Falmouth. This is fair enough, but providing vehicles and extra driver hours in the middle of the night will not come cheap, and it is hard to avoid the suspicion that the Stithians loss at teatime is Falmouth/Tremough's gain in the middle of the night.

I wonder, therefore, if you would:

- Provide an explanation as to why this particular service - the 17:40 number 36 from Truro on weekdays - was selected for withdrawal;*

- Provide an explanation as to why this change was not made more widely known, and earlier (details started to emerge only two days before the changes were imposed);
- Provide evidence from any CC passenger usage survey which may have had a bearing on this decision, including whether other no. 36 services through the day were surveyed, and when it was done;
- **Ask for the 17:45 from Truro to be reinstated, even if the former 16:45 is not;**
- Ascertain whether these changes are merely an exercise by First Kernow, probably computer-generated, concerned with the most efficient usage of vehicles/drivers during the operational day rather than any attention being paid to the travelling preferences of passengers (this seems to be a widespread phenomenon with bus times throughout the county, in what can only be described as mostly an Unintegrated Transport Policy!).

You will note that one of the above is highlighted – this is causing considerable inconvenience and I hope it can be addressed as a matter of urgency.

The next meeting of the Parish Council is on 21st November and your response in time for that meeting would be greatly appreciated.

He forwarded the following reply from David Edwards with the comment that *it would appear that the changes were made as no one from Stithians actually used this service on a regular basis. If the council have evidence that there is a regular demand for the service this could be forwarded to David Edwards for consideration.*

Dear John

Service 36 Truro to Stithians

Thank you for your e-mail. The service 36 is a tendered service, and changes made to the timetable were made in conjunction with the Council and bus company. The later 1745 journey was poorly supported and invariably ran late. The reason for this is that the bus in question was contracted to operate a school run from Helston School and arrived back in Truro to operate the 1645 to Stithians; it then should have returned to Truro to operate the 1745 off Truro. However, traffic upholds invariably meant the bus arriving in Truro late for this slot.

So, checks were made of the patronage for the 1745 and found to be a small number found to be travelling through to Helston and who would have been otherwise provided for by the improved connections at Tremough; passengers to Perranwell were covered by a similarly timed service 46. There were no passengers for Stithians. Hence the change being agreed and implemented in mid-September as it was thought that no one was affected. The bus company should have advertised the revised timetable on the bus and on their website.

The other changes referred to (ser 37; U1 and U2) are commercial changes made by the bus company. To explain: although the 37 is a tendered service for much of the year, during the Summer months the company provides additional journeys between Redruth and The Lizard on Saturdays to cater for extra demand from various holiday parks i.e. over and above the contracted level of provision – and it these that have been removed as we enter the winter season. The U1 and U2 changes were made in response to a request from the University at Tremough who fund much of the said services.

I will ask the Passenger Transport Unit to review its findings for the 36 but must ask whether it can be established that there would be significant regular patronage?

Regards
David Edwards
Passenger Transport Manager

Rod Davis's comments are as follows:

Thanks, John. A reasonably full reply indeed; however, it raises in my mind almost as many questions as it answers.

To take the patronage checks first, I'd like to know what actual surveys were done – by head counts on board, from ticket machine records, or what? And when, and over how many days or weeks? I agree that there probably not many 'regular' users, if by regular they mean daily commutes. By its nature, a bus service with 2 hour or more intervals between them – and which leaves Stithians in the morning (09.13), too late for most workplace job starts anyway, is not going to attract that sort of customer. However, there always seemed to me to be passengers on board, albeit often different ones each time, who probably have used it for shopping expeditions, leisure days out, visiting friends and relations etc. In other words, a fairly random scatter of people.

Did they only check Stithians-bound journeys? Let's not forget the bus also served Carnkie, Porkellis and Wendron, and on to Helston.; there were in my experience quite a few who went on to those places, and in the case of Helston, without having to change services at Tremough to get from Truro to Helston, which is a real turnoff for people using public transport, as the operator and Mr Edwards must know.

As to the 1645 Truro-Stithians and return, this was a relatively recent introduction, and rather superfluous, I feel. Maybe nice to have, but not much used especially in the return direction from Stithians at 1715 to Truro, when I have seen it running empty on a number of occasions. And it points up the observation I originally made about rostering of individual buses and drivers: anyone who plans timetables and who had a feel for the area would never plan for a vehicle to come from Truro to here and back in less than an hour and at that time of day. I have seen the bus go through Perranwell many times running up to a quarter of an hour late, so would miss its return departure time at 1745, with no pause - hardly a professional way to use a vehicle and driver, especially no way to treat customers hanging around in Truro bus station with no information available. Plus of course trying to fit all this in after committing it to a school run first. Not the best use of assets, I feel.

The other point that occurs to me, is have they considered that the new 'last' bus at 1650 from Truro may be carrying a number of disgruntled passengers who would have been happier to use the later 1745, as has been the case for years? Or that the ill-starred 1645 might have been creaming off some passengers from the 1745, contributing to its allegedly low patronage.

And another thing..... if usage is so low, why did they always persist in putting on a large double-decker instead of using the far smaller and more suitable Optare single-deckers, which actually do appear at times during the day? Just asking!

Final thought (I could go on): Bus companies including this one are among the most complacent of businesses, in that they simply expect customers to just turn up and spend money. Why do they never advertise? A house-to-house leaflet drop through the affected villages wouldn't cost very much in their financial terms, and might be persuasive/informative enough to persuade some new people to come out and use them. They could use the 1745 service as a case study to see how effective an advertising campaign could be.

I hope this might give further food for thought. I suspect David Edwards will know who's behind these (we've locked antlers before, over the Falmouth services mainly), but considering we used to have late evening services back from Truro until First Bus took over, the current offering is pretty poor by comparison.

Best regards,

Rod Davis

Public Transport Rep. to Stithians Parish Council

At the time of writing this report I had had no further comment from Cornwall Councillor John Thomas on the matter.

I have acknowledged receipt of the e-mail from Cornwall Council advising them that I would "take further advice". How do Members wish me to proceed?

JV Calvert,

Clerk

16th November 2017

AGENDA ITEM 12.1

Clerk's Reports for Meeting on 21st November 2017

Summary of Decisions Required:

1. To note the Council's current financial position.
2. To approve the Budget for 2018/19 as presented to the meeting.
3. To set the Precept for 2018/19 at £72,750.
4. To note any information provided to the meeting concerning the 2017 Remembrance Events.

Report:

12.1 Council's Current Financial Position:

Appendices 1, 2 and 3 to this Report show the Council's financial position as at 15th November 2017.

I do not propose to elaborate further on the Appendices but will be pleased to address any matters that Members may wish to raise at the meeting.

12.2 2018/19 Budget:

Members approved under Minute 03/10/17 the draft budget presented to the October meeting. It was agreed under that minute that it would be presented to this meeting for final agreement.

I have, however, found it necessary to make some amendments:

1. There was nothing in it for a Neighbourhood Development Plan. Whilst I appreciate that no final decision has yet been made as to whether or not to actually produce a plan, I feel something should be included and to this end I have included a sum of £500. I realise that, if it is decided to produce a plan, this will be insufficient but at least then there will be a budget head which will facilitate keeping track of the expenditure, some of which may well have to come from reserves.
2. I neglected to include an item for the water supply to the cemetery which, as Members are aware, has already been connected and supplies the adjacent churchyard. I have yet to receive an invoice but have included the sum of £100.
3. I have been informed by Cornwall Council that the Council Tax Support Grant will be only £2,366 compared to my estimated figure of £2,904 and so have amended it accordingly.
4. I have also now incorporated accurate figures for income from the Rugby Club, Bowling Club and the PCC.
5. There was a typo in the figure included for Playing Field Grass Cutting whereby two figures were transposed which has resulted in an increase.
6. All the figures for the various contracts are now accurately represented.

This increased expenditure and reduced income has been accommodated by reducing the Sports Centre Development Fund budget by £1,100 and reducing the Tennis Court/Bowling Club Fencing Fund, which, as Members are aware, is used as a balancing item to produce a neutral budget.

The amended budget is attached as Appendix 1 to this report wherein the afore-mentioned amendments, other than the amended figures for the various contracts, are highlighted in green.

12.3 Remembrance Day 2017:

This year's Service at the War Memorial, when wreaths were laid, was at 10.45 on Saturday 11th November. The Parade was on Sunday 12th November commencing at 10.00 for a service in the Church at 10.30.

I trust that Members who attended will report verbally on both events.

JV Calvert

Clerk and RFO

15th November 2017

The Appendices to this report may be seen upon application to the Clerk

AGENDA ITEM 13.1

This is merely a list of current Planning Applications prepared for the convenience of Councillors and is not included here. Anyone wishing to see it may do so upon application to the Clerk.

AGENDA ITEM 13.3(a)

Application Ref: PA17/09572

Proposal Conversion and extension of agricultural buildings to form four dwellings including alterations to access, creation of parking area and installation of sewage treatment plant

Location Penhalurick Barton Penhalvean Redruth Grid Ref 170381 / 38137

Applicant Ms Rosemary Johnson

Decision Required:

Members are requested to consider the following report to reach an informed decision regarding the above planning application.

Date of Site Inspection:

15/11/2017

Councillors who undertook the site inspection:

Cllrs H Jones, R Wood and V Kavanagh

REPORT:

Background:

Despite the numerous documents accompanying this application it is basically the same as the previous one which was approved in Nov 2011 and Aug 2012,

It is proposed that the buildings redundant for modern agriculture be converted to four separate dwellings, the difference being that they would be either for holiday let or permanent dwelling and the sewage treatment plant is related to this possible increased usage.

The property which is very run down is situated in a beautiful setting and not overlooked by neighbours. It has been on the market for some time and this is why the time limit has elapsed as no work has been done except some initial drainage work linked to the development.

Matters of Concern:

None

Cllr V Kavanagh

15.11. 2017

AGENDA ITEM 13.3(b)

Application Ref: PA17/05423

Proposal: New window openings in main dwelling, barn conversion and outdoor swimming pool.

Location: Tory Farm, Ponsanooth

Applicant: Mr and Mrs Pinkney

Decision Required:

Members are requested to consider the following report to reach an informed decision regarding the above planning application.

Date of Site Inspection:

15/11/2017

Councillors who undertook the site inspection:

Cllrs H Jones, R Wood and V Kavanagh

REPORT:

Background:

The main dwelling at Tory Farm is a 17th and 18th century farmhouse. It is not listed and therefore not subject to any restrictions that would otherwise apply. There are therefore no restrictions on the addition of new windows.

The barn that the applicants wish to convert is of a similar age and has not been used for its original purpose for very many years. It is proposed to convert it to poolside rooms. It is proposed to build the swimming pool at the rear of the barn conversion. It is intended that the pool be installed by professional swimming pool installers so that items such as drainage would be correctly dealt with and surrounding land would not be affected in any way. There is a stream at some distance from the proposed pool but water from the pool would not be discharged into the stream. The applicants added that the pool is family use only so there would be no increase of traffic in the narrow country lane outside their property. The nearest neighbours are some metres down the lane. There are deciduous trees between the properties which screen both properties from each other during the optimum outdoor swimming period.

Matters of Concern:

None

Cllr R Wood
16.11. 2017

AGENDA ITEM 13.3(c)

Application Ref: PA17/08984

Proposal Installation of a single wind turbine (max hub height 40m, max blade top 58m) with associated infrastructure and equipment

Location Land West of Little Lansewith, Tretheague, Stithians, Cornwall

Applicant Mr James Pearce South West Water Limited

Decision Required:

Members are requested to review the information received with this application to reach a decision regarding the above planning application.

Date of Site Inspection:

N/A

Councillors who undertook the site inspection:

N/A

REPORT:

Background:

This very detailed and extensively researched application has been received with a total of 27 supporting reports.

I do not intend to summarise all this information into a one page report, believing that all councillors present at our November meeting will have been able to look over the information already provided prior to our meeting.

Matters of Concern:

To be discussed at our meeting

Cllr H Jones

17 Nov 2017

AGENDA ITEM 13.3(d)

Application Ref: PA17/10290

Proposal: Lawful Development Certificate for commencement of development as Material Operation under PA12/09523.

Location: Tregolls Farm.

Applicant: Mr & Mrs Rowe.

Decision Required:

Members are requested to consider the following report to reach an informed decision regarding the above planning application.

Date of Site Inspection:

15/11/2017

Councillors who undertook the site inspection:

Cllr H Jones R Woods and V Kavanagh

REPORT:

Background:

Planning permission was applied for in this field by the previous owner and granted for 3 houses. The applicant was aware that the designated agricultural track was the only access to the site but made no application for change of designation at that time as it would have been unlikely to have permission granted for a site with no legal access. The site was subsequently sold on at auction and the auctioneers were informed by more than one source that there was no legal access to the site and the track to the field was agricultural access only and that it was unsuitable for regular traffic.

The present application is for permission for the building work on the site to begin. There is planning permission so they can begin whenever they wish if they can get materials on to the site without using the agricultural track and provide access for the potential buyers.

Cllr Jones, Woods and I visited the site and all agreed that the track is not suitable for regular traffic. It had poor access onto the main road, it is narrow and with a mud surface. It has been agricultural access for many years and whilst we sympathise with the present owner this fact was known when the site was sold.

Matters of Concern:

The track is an agricultural access only. The surface is unsuitable for regular traffic. Should permission for change of designation be given who will maintain the track surface etc. Permission could also open the fields to further development.

Cllr V Kavanagh

15.11. 2017

AGENDA ITEM 13.3(e)

Application Ref: PA17/10458

Proposal: Listed building consent application to re point the south facing wall of the house and the two chimney stacks on that side of the house

Location: Tretheague House Tretheague Stithians Truro

Applicant: Mr David Hillier

Decision Required:

Members are requested to consider the following report to reach an informed decision regarding the above planning application.

Date of Site Inspection:

N/A

Councillors who undertook the site inspection:

N/A

REPORT:

Background:

Using traditional materials, the applicant proposes to repoint the south facing wall of the house and the two chimney stacks on that side of the house, to maintain the property.

Matters of Concern:

None.

Cllr H Jones

17th November 2017

AGENDA ITEM 14

Clerk's Report for Meeting to be held on 21st November 2017

LICENSING APPLICATIONS

Decision Required:

To note and accept the content of the report on Licensing Applications.

Report:

As Members are aware, I receive an e-mail every week detailing all licensing applications. Up to 14th November there had been no applications affecting Stithians.

For Members' information, who wish to check applications for themselves, the link to the website is www.cornwall.gov.uk/default.aspx?page=21173

I receive no such assistance with details of applications received in relation to sex establishments and so still have to do that myself. I last checked the link to their website, which is www.cornwall.gov.uk/default.aspx?page=28415 , on 14th November and found no new applications in respect of the licensing of sex establishments affecting Stithians or anywhere else in Cornwall for that matter, although the application to renew the licence for an establishment in Newquay was still showing, the closing date for objections, 3rd March, having now long passed. I note, however, that the page is still showing that it was last updated on 6th February 2017. I also note that "every effort has been made to update this register on a weekly basis"!!!! Hmmmmmm!!!

JV Calvert,

Clerk

14th November 2017

AGENDA ITEM 15.1

Clerk's Report for Meeting to be held on 21st November 2017

New Cemetery Provision

Decisions Required:

1. To note and approve the content of the report.
2. To appoint a Member to serve on the Cemetery Working Group.

Report:

The Chairman and I met Roger Hocking on 1st November to clarify matters as regards the CDM Regulations prior to approaching three local contractors.

Roger agreed to prepare the necessary documents and plans to enable discussions to take place with three contractors and further agreed to attend (separate) meetings with the contractors to outline to them exactly what will be involved in order for them to tender for the work. It is hoped that he will have completed this by the date of your meeting and that the meetings can be arranged very soon after that.

Following the resignation of Councillor Paul Sims, there is now a vacancy on the Cemetery Working Group.

JV Calvert,

Clerk

14th November 2017

AGENDA ITEM 16.1

Rights of Way, Highways and Environment

Report for Meeting to be held on

21st November 2017

Rights of Way:

(all in Stithians Parish are prefixed by Cornwall Council as 231)

Generally:

At our meeting I would like to ask Councillor Will Thomas of the situation relating to the RoW through West Trevaes Farm. When we met last week he expressed some uncertainties and since he knows this ground better than I, it would be useful to have his explanation.

RoW 2 (Seureah toward Foundry)

The land skirted by this path belongs to Ms. Karen Best of Lanner to whom our Clerk recently wrote asking that she improve the state of the path which is wet and slippery. His letter and Ms Best's reply are attached as Appendices 1 and 2 to this report. The Countryside Ranger has also seen them and has replied as follows:

I have read both letters and the landowner is correct in their response about surface condition of the footpath. Landowners have a duty to maintain their hedges that border a public right of way, by cutting back any overhanging side or overhead growth that is encroaching onto the path (3m head clearance required by law on a bridleway). Furniture such as stiles or gates on a path on their property are their responsibility to maintain because they are usually in situ to control the movement of livestock. If a gate or stile is in disrepair we will usually write to the landowner asking that they repair in line with British Standards recommended designs. The surface of a path is the responsibility of Cornwall Council and any problems with the surface should be reported to us and we will inspect and deal with appropriately. I have copied in the countryside mailbox and the issue of the muddy footpath surface will be logged and I will inspect the footpath.

I remember this particular issue. Due to the change of use of the field adjacent to this section of footpath CC authorised the fencing to be erected for the safety of the public. The field was to become a dog exercising area and this fencing reduced any chance of the public getting injured from a potentially aggressive dog.

The stile in the photo looks to me that it is redundant and ought to be removed. There is a large gap alongside it that clearly people are walking through. Is the stile in the same location as the fence?

Kind regards,

Penny Hodgson

Countryside Ranger (Area 2)

Decision required:

To agree a suitable course of action.

RoW 1 (Foundry toward Seureah)

Councillor Will Thomas recently remarked on the unsafe state of the wooden stile; this has been in place for many years and was necessary at one point to travel the path. However, there is now enough width to pass beside the stile without having to climb and in view of its state that stile could be removed. The wire fence which borders the river (posts and strand; not barbed) has stretched over the years and in places has broken with the result that the strands have been wound around other strands or posts in a makeshift fashion to stop them encroaching on the path. However, this leaves sharp points which could cause injury to persons or clothing. There is concern, too, for the structure of the wooden footbridge where the path divides to take one part of the path to the Church and the other to join path 2.

This stretch of path/land has been retained by a previous owner, Mr. Michael Manning. I last heard of him living in Penryn, though I have no idea whether he is still there.

Decision Required:

That if the whereabouts of Mr. M. Manning cannot be established, we take advice from our Clerk as to whether Stithians Parish Council gets the bridge checked and all

necessary work done to make this stretch of path safe or ask Countryside Access to take the matter in hand.

Anomalies in Definitive Rights of Way throughout our Parish.

Councillor Will Thomas and myself have had a look at our RoW map and familiarised ourselves with the situations where we recognise anomalies. Prior to our taking over the Portfolio for RoW, Highways and the Environment, (the then Councillor) James Biscoe produced a list with an accompanying map of the anomalies as he saw them. I was not a Councillor at that time, but I believe that these details were passed to Countryside Access who have since had several changes of staff to the end that we are no longer sure where the Stithians' situation stands.

Decision Required:

That our Clerk write to Countryside Access to ascertain what action has been taken toward addressing the anomalies and bringing the Stithians Parish Definitive Footpath map up to date.

Environment

Flooding:

Cllr Burley has advised as follows:

- 1. Sadly I was unable to attend the Cornwall Community Flood Forum meeting in Truro due to personal reasons.*
- 2. Driving along the road from the bottom of Tremenneheere Farm to Seaureaugh Cottage, I recalled landowners are responsible for water ways. The short section of river from the bridge next to Seaureaugh Cottage along the road and following the footpath towards Foundry has trees from both sides the hanging over and into the river. This is just one example in the parish. Should the parish council remind landowners of their duties or who what body is responsible to do so?*

The Clerk has copies of "Living on the Edge", the Environment Agency Guide to the rights and responsibilities of riverside ownership. Members may recall that efforts were made a while ago to publicise this.

Decision required:

??????

Litter:

Cllr Burley has advised as follows:

Overall there is nothing really to report other than the constant dropping of litter and also litter being thrown out of car windows.

Litter posters that the children of the school did should be displayed in the new notice board as when I last looked was rather empty.

If the Council is agrees I'm happy to discuss with the head teacher whether pupils can do a science project or lesson on waste and time it takes to decompose. For example, plastic, and effects it has on wildlife.

Over the next few weeks I will also be monitoring hedge rows as they die back and report any excess litter problems to Cornwall Council for them to arrange clearing.

A sobering thought, nearly 8 million tonnes of plastic is dumped in to our oceans every year according to the TV programme Blue Planet II. Plastic on land dumped must be many more times that. What are we doing to our planet, our village?

Any other ideas to curb the problem from the Council?

Decision required:

To agree to Cllr Burley discussing with the Headteacher the possibility of a project on waste and to note his other intentions.

Highways

Tubbin Hill: The branches which grow over the road and caused concern last year have still not been dealt with. These branches force large/high vehicles such as double-decked busses to the centre of the road to avoid damage in a road which is pretty narrow and winding, so vehicles are then placed into the paths of oncoming traffic, a particular worry on blind bends.

Decision required:

That this matter be brought to the attention of Cormac/County Highways.

THIS WAS PART OF MY JULY 2017 REPORT AND REMAINS BECAUSE NOTHING HAS YET BEEN DONE TO IMPROVE THE SITUATION. Our Clerk reported on this at our Cormac Meeting. I shall keep this in reports until the matter has been remedied.

Joy Thomas,

Portfolio Holder RoW Highways and Environment

The Appendices to this report may be seen upon application to the Clerk

AGENDA ITEMS 16.2 – 16.5

Footpaths, Highways & Environment Portfolio - Clerk's Reports for Meeting on 21st November 2017

Summary of Decisions Required (Details in report):

- 1. To note and approve the content of the notes of the meeting with the Cormac Area Manager held on 10th November 2017 and the information reported by the Clerk in respect of grit bins and signs at Gribbas Corner.**
- 2. To note and approve the content of the Clerk's report on the Wellness Hut.**
- 3. To note and approve the content of the Clerk's report on the new notice board and to agree that posters for the community notice board should be left in the shop for placing on the notice board as soon as possible after being left there.**
- 4. To note and approve the content of the Clerk's report on traffic and parking issues and to confirm that a meeting with the Cornwall Council Road Safety Officer will be arranged by Cornwall Councillor John Thomas as soon as possible.**
- 5. To note that proposals from the Glebe Committee for housing in Hendra Road adjacent to the Church should be at an appropriate stage for consultation by the end of November 2017.**

16.1 Environment Portfolio Holder's Report:

The report from the Portfolio Holder is presented separately.

16.2 Meeting with Cormac Area Manager:

The notes of the meeting with the Cormac area Manager held on 10th November are attached as Appendix 1 to this report.

Members will note that at that meeting, I agreed to check the salt bin in the parish to see if any needed replenishment. There are five:

- Foundry near the bridge.
- Foundry Hill near the bus shelter.
- New Road/Crellow Lane near the bus shelter.
- Collins Parc near New Road.
- Tregolls Corner.

All of them currently contain significant amounts of grit/salt of varying quality but I see no need for any action at present.

I also agreed to inspect the three signs at Gribbas Corner mentioned in the notes:

- The East Road sign has been re-erected.
- There is a damaged direction sign but it is still readable.
- I saw no damaged sign on South Road towards Tregolls.

16.3 Wellness Hut:

The Wellness Hut continues to prosper.

I reported to the September meeting that one matter was outstanding following the refurbishment works and that was the fact that insulation was never installed at the “toilet” end of the building and an area 12ft x 12ft needs to be covered to a depth of 12”. Tyrone Martin quoted £25 for doing this with the materials being obtained from LA Phillips for approximately £80. I advised that the toilet maintenance budget would cover this cost and Members approved the expenditure under Minute 17/09/17(2). Arrangements were made for this work to be carried out on Monday 13th November.

16.4 New Notice Board:

The notice Board has now been erected by Cllr W Thomas. Unfortunately, there are several places where the paint is chipped. Whether or not this has occurred during transit or erection has not been established but in any case they are to be rectified by the supplier when he visits to replace the backing board which is faulty in that the paint lifts when the magnets that hold notices in place are removed.

The Chairman has also ordered some additional magnets as insufficient are supplied as standard.

Members will recall that, under Minute 17/10/17 (5), it was agreed that in order for the notice board to be used by the community, a key would be left in the shop. On second thoughts, however, this may not be such a good idea as there would be no control as to what appears on the notice board, there is the possibility of damage to the doors in windy weather and the possibility of the non-return of the key which is a specialist item.

It is felt that it would be preferable to publicise the fact that, if posters (relevant to Stithians!!) are left in the shop, they will, if deemed appropriate, be placed on the notice board as soon as possible. It is envisaged that they will be able to be collected and posted at least twice a week.

16.5 Traffic and Parking Issues:

There is still no further progress as regards a meeting with Cornwall Council’s Road Safety Officer.

Cllr Burley reports as follows:

Unfortunately very little to report! After awaiting for someone to return from holiday I was told they could not help and the local Cornwall Councillor needs to request from highways a representative to come out and see us.

At the meeting we should ask Councillor John Thomas to recommend the relevant person to come out and discuss issues with us.

I have mentioned to Councillor Jones in passing, if he is happy to discuss with the representative the area New Road meets, Crelow Hill and Crelow Lane to avoid conflict of interests. Where, as with the rest of the village I am more than happy to assist.

In the meantime little has changed.

Members will recall that, under Minute 18/10/17(3), it was agreed to ask Michael Greet, the Agent for the Glebe, to contact the Council as soon as proposals for housing adjacent to the Church in Hendra Road were at an appropriate stage for consultation. He informs me that he should be ready to do this "towards the end of the month".

JV Calvert,

Clerk

19th November 2017

Appendix 1 to AGENDA ITEM 16.2

NOTES OF MEETING WITH THE AREA MANAGER, CORMAC SOLUTIONS LTD, 09.00hrs 10th NOVEMBER 2017

Present:

Adrian Drake (AD), Highways & Environment Manager, Cormac Solutions Ltd.
Cllr Joy Thomas (JT), Portfolio Holder for Environment, SPC
John Calvert (JVC), Clerk, SPC

Apologies:

Cllr Phil Blease (PB), Chairman, SPC

Colours indicate action required by that person.

1 Closed Churchyard:

Tree and Wall:

Tree now to be felled (PA/05278 – granted 05/07/17). Work still awaited.

2 Surface Dressing & Highway Patching Programmes: Ben Dickinson had previously advised that, as well as the three areas detailed below, the footpath in Crelow lane was to be resurfaced in 2017/18. Schemes included for Stithians:

- Road from Tregolls to the end of Mill Lane
- Road from London Wells on A394 to junction of road to Tregolls (only partly within the SPC boundary)
- Hendra Road from Church Corner to Hendra Close.

It was noted that none of these had been done and that the surface dressing "season" was now over. AD to investigate and also provide 2018/19 programme when available.

3 Gritting Routes: No changes for 2017/18. JVC to check salt bins to see what replenishment is needed.

4 Cyclical Maintenance: Nothing to report at present.

5 Crane Garage: No-one aware of any new problems.

AD suggested that if parked vehicles were obstructing sight lines, the Police should be contacted as they have powers to remove them whereas all he can do is serve notice which takes 28 days minimum.

6 Speed Watch: JVC advised that Cllr John Thomas had now progressed this further and that the item would be removed from future notes.

7 **Longdowns:** Cornwall Councillor John Thomas is on the case as regards the speed camera and is well aware of SPC's desire for a central refuge. AD advised that CC has a list of schemes for 2015-19 which it is looking to revise. He further advised that JT should put the matter of the central refuge through LTP3 (Local Transport Plan). AD will speak to JT(CC).

8 **Traffic Regulation Orders:**

The list at present is:

- *Bus Stops:* Neither of the two stops in Crelow Lane has a legal order and CC will therefore not agree to the marking as they were considered new schemes. They are therefore on a wish list.
- *Stithians Centre:* Extra disabled space.
- *Gribbas Corner:* Double yellow lines.
- *Collins Parc:* Double yellow lines.

Costs associated with Traffic Regulation Orders are roughly £5k for the first one and thereafter £1k for each one tagged on.

9 **Gribbas Corner:** Sign now erected but is ignored at times. As of the May meeting, three signs were in need of attention:

- East Road sign needs re-erecting
- Direction sign damaged
- Sign on South Road towards Tregolls damaged.

JVC to check

Obstructive parking was discussed and AD referred to a House of Commons Note SN1170 which outlines the powers that Police have. He also advised that the Devon & Cornwall Police website gives details of the powers the local police use.

10 **Refurbishment of Milestones:** No further progress to date.

11 **Bus Stops at Pelean Cross:** It was previously noted that JT had advised that there had been flooding problems. Investigations had shown that the problem is in the pipework and is not in BD's area. BD had spoken to Viv Bidgood who had informed him that CC were unwilling to install a new system but the location had been added to the list of Flooding Hotspots. This means that when significant rain is forecast, all locations on the list are visited to ensure that all drains are clear. JT outlined the problems with the siting of the actual bus stops. AD to inspect.

12 **Road to Trewithen Moor:** JT had previously advised of several parts where the road edge was crumbling. These had been repaired. AD advised that some crumbling was inevitable and acceptable. Any such problems in the future, including potholes should be reported via the CC website.

13 **Sunny Corner Bolt Hole:** Despite the works having been done, there had been further problems. Some further work had been carried out and it was hoped all would be OK. It advised that it was once more in need of clearing. AD to check.

14 **Overhanging Vegetation:** JVC had previously advised that it had been reported at the 2016 Annual Parish Meeting that there were several roads in the parish where adjacent vegetation was overhanging to such an extent that larger vehicles were being forced onto the wrong side of the road, Tubbin Hill being a prime example. Still on-going in identifying problem areas through the bus companies. There were also instances in the village itself where footpaths were being obstructed. AD was happy

to provide JVC with booklets and pads of notices for issuing by the PC but advised that in his experience, a personal approach achieved better results with the issuing of a notice being used only when an informal approach fails. JVC advised that John Thomas had indicated to the October PC meeting that a budget had been set aside to deal with overhanging vegetation on roads such as Tubbin Hill. Results awaited. AD advised that the clearance should be 5.1m.

- 15 **Menerdue Farm:** JT had previously advised that the road serving Menerdue Farm, which is actually owned by Cornwall Council, was in a bad state of repair. BD had previously advised that this had been nominated for resurfacing in 2018/19 list. JT also previously reported that the footpath through the farm was affected by slurry and discarded milk left by the departing tenant. This had now been cleared by the new tenants, William & Kerry Johns. **AD to check if the road is, in fact, an adopted highway.**
- 16 **Mill Lane:** Signs at each end to warn drivers to ignore sat nav and that road is unsuitable have now been erected.
- 17 **Other Matters:**
- *Drainage in Hendra Road opposite Coastline Development:* Drain into Glebe field is currently clear as no flooding has occurred of late.
 - *Site for New Notice Board:* This has now been erected.
 - *Drain in Crelow Fields:* JVC advised that the drain reported by Cllr Paul Sims had been cleared.
 - *Ponding at New Cemetery Entrance:* JT outlined the problem. **AD to inspect.**
 - *Stithians Direction Sign at Penhalvean:* Cllr Viv Kavanagh had reported problems in being able to see this sign when approaching from Menherion. **AD to inspect.**
 - *Road between Penhalvean and Menherion:* JT advised of her on-going dialogue with John Thomas about signs warning of horses and cyclists and that they were going to meet to discuss. AD advised that, under CC Policy, it may not be possible to erect such signs.
- 18 **Meeting ended:** 10.45.
- 19 **Next Meeting:** TBA.

JV Calvert
Clerk
Stithians Parish Council

14th November 2017

AGENDA ITEM 17.1

Playing Field Portfolio

Clerk's Report for Meeting on

21st November 2017

Summary of Decisions Required (Details in report):

1. To note and agree the content of both the report and the notes of the Playing Field Progress Meeting held on 13th November 2017 and the actions contained therein with particular reference to any financial implications.
2. To agree to block up the gateway between the old and new playing fields with Cornish Hedge and to seek quotations for the work.

Report:

17.1 Playing Field Progress Meeting:

The notes of the Playing Field Progress Meeting held on 13th November appear as Appendix 1 to this report. Members are requested to note the content thereof with particular reference to any financial implications arising therefrom. By accepting the report, Members are agreeing to accept any quotations referred to therein.

Referring to the notes of the meeting, I would inform Members as follows:

Replacement Pay Equipment:

A report on this will be included as a separate Item 17.2.

Zip Wire:

It is anticipated that by the date of your meeting this will have been ordered. As Members are aware, the zip wire is to be installed alongside the boundary with the new playing field and to this end, to minimise the risk of conflict between users of the wire and pedestrians using the gateway between the old and new playing fields, it will be necessary to block up the gateway by erecting a Cornish Hedge in keeping with the surrounding hedges. This should not cause a problem as access between the two fields is possible by other routes. Members are requested to agree to this and to quotations for the work being sought.

Car Park Maintenance:

Members will recall that under Minute 19/10/17(2) it was agreed to to seek quotations from contractors to “recycle” the car park surface in order to level it. I hope to be able to report verbally on this to your meeting.

Hedge alongside Tennis Court Footpath:

Members will note that Cllr W Thomas has expressed concerns about this. I hope that he will be able to clarify matters at the meeting.

JV Calvert

Clerk

14th November 2017

Appendix 1 to AGENDA ITEM 17.1

NOTES OF PLAYING FIELD PROGRESS MEETING HELD ON

MONDAY 13th NOVEMBER 2017.

Present:

(HJ) Councillor H Jones – Playing Field Portfolio Holder

(VK) Councillor Mrs V Kavanagh – Assistant Playing Field Portfolio Holder

(TM) Tyrone Martin - Playing Field Caretaker

(JVC) John Calvert - Clerk

Colours indicate action required by that person.

Apologies:

None

Notes of Meeting:

As has become normal practice, the notes of the previous meeting, in this case, 9th October 2017, were used as an agenda with any other items included under "Other Matters" or as necessary.

1. Pavilion: Replacement Pavilion:

This is on hold pending a meeting of the Parish Development Working Group. JVC has previously advised that if it were decided to replace the existing pavilion with portacabins, planning permission would be required.

2. Replacement Play Equipment:

Three proposals were presented to the September 2017 PC meeting when it was resolved not to go with the Sovereign one as it was wood. Sovereign have been informed. Wicksteed and Hags have been requested to make some amendments, particularly an extra cradle swing and resubmit estimates.

Wicksteed have submitted their revised proposals, which have increased the estimated cost. Hags, despite several reminders, have not responded.

A report is to be presented to the November PC meeting.

Zip Wire: The contribution from Cllr John Thomas's Community Chest of £504.95 has now been received. The PC will need to pay for the supports and installation. In the meantime VK will provide details of the supplier so that JVC can order it.

In order to install the zip wire in the location proposed, it will be necessary to close off the gateway between the old and new playing fields. This is not seen as a problem as access to the new playing field and the footpath can be gained by other means.

3. Caretaker's Inspection Reports: Inspection Report Dated 12th November 2017:

No problems identified. It was noted that TM had fitted the replacement seats to the Sky Saw. TM to submit invoice for £19.50 as agreed.

4. Annual Safety Inspection:

Outstanding Matters:

- Multi Play – TM had quoted £26 for wrapping bottom bar with safety surfacing which was accepted at the September PC meeting. Done – invoice paid at October PC meeting.
- Sputnik seats – TM had quoted £19.50 for one new seat which was accepted at the September PC meeting. Done – invoice paid at October PC meeting.

5. Other Matters from Previous Meetings:

- *Climbing Wall Rope Net:*
Still being monitored – all OK at present. Nothing in this respect identified in Annual Inspection.
- *Tennis Court:*
Tag for key now attached.

Overall condition of the tennis court is good. TM to ensure it is cleaned more often in the coming weeks because of leaf fall. TM hoping to renew white lines soon – weather permitting.

- *Old Playing Field Entrances:*
TM was still “keeping on top of the weeds”. Further moss treatment will be carried out when necessary. TM sprayed weeds when spraying in the village.
- *Dogs in Playing Field:*
JVC had previously advised that Mike Dawes, Chairman of the Rugby Club, had asked to attend a PC meeting and it had been agreed that it would be the October meeting. He did not attend as he had another matter to deal with. When he does attend, that will be used as an opportunity to ask the RFC to assist with reminding dog walkers of their responsibilities as regards the rugby pitch. The possibility of providing bigger “No Dogs” signs was again discussed. No further action at present as existing signage ought to be sufficient.

6. BMX Track:

Agreed to continue to monitor as it is a waste of time to do anything about the “modifications” made by the users. No further modifications recently.

7. Car Park Maintenance:

The surface had deteriorated considerably. It had been decided at the October PC Meeting not to extend the car park but to investigate the possibility of reconstituting the existing surface. JVC pursuing but dealing with other matters in preference.

8. Tennis Court Footpath:

TM monitoring and taking action as and when necessary regarding flooding. No problems with this or dog fouling at present.

9. Youth Shelter:

TM advised that there was sufficient paint left for one more application after the one he had just done.

10. Condition of RFC Training Pitch:

As previously reported, under the terms of the MOU the RFC are obliged to rectify damage at the end of the playing season. It was previously agreed to monitor and take necessary action at the end of the playing season. No action required. Training has, however, not started again.

11. Moles in the Playing Field:

It was previously suggested that the problem might not be as bad as at first thought. HJ & VK were of the opinion that there was no need for any action at present. It had been agreed at the October PC meeting to continue to store the pins and barriers at West Trevaes Farm.

12. Other Matters:

- *Flagpole:*
No action at present.
- TM had previously advised that he had carried out the hedge trimming. JVC advised that Cllr W Thomas had raised the matter of the hedge alongside the tennis court footpath needing trimming. TM & HJ had looked and were of the opinion that it was OK. JVC will raise the matter with Cllr Thomas at the November PC meeting.

13. Next Meeting:

It was agreed that the next meeting would be at 9.15am on Monday 8th January 2018 at Dursona.

JV Calvert

Clerk

13th November 2017

AGENDA ITEM 17.2

Playing Field Toddler Play Area Costing Report

Summary of Decision Required:

To note the report and select which supplier we want to move forward with for our new proposed toddler play area.

Report:

Following on from the September PC meeting, where it was agreed that a revised cost report from the 2 remaining suppliers would be presented to the November PC Meeting.

We have revised quotes for the re-development of the Toddler Play Area from:

- Wicksteed Playgrounds
- HAGS SMP

The brief we gave to each company was the same - a new and much needed larger play area, the removal of old equipment, re-locating of some existing items, a selection of new play equipment, new safety surface, fencing and 2 gates.

Wicksteed were the first company to respond to the requested revisions / amendments.

The equipment that we specified from Wicksteed was to be manufactured from steel, to minimize future maintenance costs and the play area floor that we specified was rubberized coloured wet-pour.

We have selected new items including, swings / roundabout / multi-play system and spring mobiles.

The new area will be enclosed with bow top fencing and will meet the access / egress H & S requirement with two self-closing gates.

Wicksteed headline cost excl. VAT is £55,800 – but there is 25% match funding available which would bring the cost down to £41,850.

Details of their proposed scheme are attached as Appendix 1 to this report.

HAGS were slightly slower in responding to the requested revisions / amendments.

The equipment that we specified from HAGS was to be manufactured from steel, to minimize future maintenance costs and the play area floor that we specified was rubberized coloured wet-pour.

We have selected new items including, swings / roundabout / multi-play system and spring mobiles.

The new area will be enclosed with bow top fencing and will meet the access / egress H & S requirement with two self-closing gates.

HAGS headline cost excl. VAT is £45,000.

Details of their proposed scheme are attached as Appendix 2 to this report.

Subject to selecting which supplier we wish to move forward with, we will then be able to move forward with grants and funding work.

H Jones & V Kavanagh

November 16th 2017

The Appendices to this report may be seen upon application to the Clerk

AGENDA ITEM 21

Clerk's Report for Meeting to be Held on 21st November 2017

Correspondence Received

SUMMARY OF DECISIONS REQUIRED (Details in Report):

- To note receipt from Cornwall Council of their Localism Update dated September 2017.
- To note receipt from the Council's Insurers, Came and Company, of their Autumn 2017 Newsletter.
- To note receipt from Cornwall Council of their Planning Newsletter dated October 2017.
- To note receipt from Cornwall Council of their Communities & Devolution Newsletter dated October 2017 and to note the Clerk's actions in registering for the free mapping website being offered by Cornwall Council.
- To note receipt from CALC of their October 2017 Newsletter.
- To note receipt from Cornwall Council of their Localism Newsletter dated October 2017.
- To note receipt from Cornwall Council of their first Quarterly Planning Enforcement report for the second quarter of 2017.
- To note and approve the actions taken by the Chairman and Clerk in respect of a complaint received by Mr B Pettersen and to agree to the Clerk, in conjunction with the Chairman, continuing to deal with the matter as appropriate.
- To note receipt from Cornwall Council of information relating to forthcoming Planning Conferences.

REPORT:

Since the last meeting, the following correspondence has been received:

<i>Date</i>	<u>Type</u>	<u>From</u>	<i>Subject</i>	<u>Action Taken/Requested</u>
19/10	E-mail	Cornwall Council	Localism Bulletin - Sept 2017	See Section 1 of Report
23/10	E-mail	Came & Company	"Council Matters" – Autumn 2017	See Section 2 of Report
01/11	E-mail	Cornwall Council	Planning Newsletter – Issue 2	See Section 3 of Report
01/11	E-mail	Cornwall Council	Communities & Devolution Newsletter - October 2017	See Section 4 of Report
02/11	E-mail	CALC	October Newsletter	See Section 5 of Report
01/11	E-mail	Cornwall Council	Localism Newsletter – October 2017	See Section 6 of Report
31/10	E-mail	Cornwall Council	Quarterly Planning Enforcement Report	See Section 7 of Report
05/10 to 28/10	E-mail & Letter	B Pettersen	Complaint re use of picture on website	See Section 8 of Report
03/11	E-mail	Cornwall Council	Planning Conferences	See Section 9 of Report

1. I circulated this to Members for information on 19th October.
2. This is a quarterly newsletter issued by the Council's Insurers and I circulated it to Members for information on 24th October 2017.
3. This gives a summary of planning applications dealt with in the first quarter of 2017 as well as other information, including Neighbourhood Planning. I circulated it to Members for information on 2nd November.

4. I circulated this to Members for information on 2nd November. It contains details of a free mapping service being offered by Cornwall Council which will be useful in all sorts of ways, not least of which is Neighbourhood Planning. The first step was registering with the Ordnance Survey which was completed on 6th November. I now have access to the Cornwall Council interactive mapping service.
5. I circulated this to Members for information on 2nd November.
6. I circulated this to Members for information on 2nd November.
7. This is number 1. I assume it is to become a regular occurrence. I circulated it to Members for information on 2nd November.
8. The Chairman and I were first made aware of this complaint via an e-mail through the Parish Council website on 5th October. It was not reported to the October meeting because it was not considered necessary as the offending picture was removed immediately and an apology made. We thought that was the end of the matter. The complaint was made against the Chairman and myself and the Council as a whole by a photographer, Mr B Pettersen, to the effect that a picture of storms at Porthleven had been used on the Council's website without his permission as he had sole copyright of it. The offending picture appeared in the SEG article on the website prepared and uploaded by the Chairman. As stated, as soon as he was made aware of it, the Chairman removed it.

Mr Pettersen, despite this, reported the matter to Cornwall Council's Monitoring Officer and the first we were aware of this was when both the Chairman and I received letters from the Monitoring Officer dated 18th October advising that a complaint had been made but rejected as it was made against the Parish Council as a whole and the Code of Conduct only applies to individual Councillors. Following that, I received a written complaint dated 27th October as did John Colgate because the article appeared on the Stithians Centre website which, as you may know is also administered by the Chairman and where the article also appeared.

John Colgate has been in e-mail correspondence with Mr Pettersen and as of 2nd November the matter had not been resolved to his satisfaction. The whole issue is rather complicated and revolves around the way in which documents are stored and they way some which are supposedly hidden can still be accessed.

The complaint to the PC amounted to 24 pages and, because he was the one who inadvertently used the picture, the Chairman has been in contact by e-mail with the complainant. Interestingly, the complainant has stated that all contact must be in writing. Any attempt to actually speak to him will be construed as harassment. It is not at present clear exactly what Mr Pettersen expects by way of resolution of the matter although the document referred to above does allude to financial implications resulting from permission to use the picture.

Both the Chairman and John Colgate sought clarification from Mr Pettersen as to how he expects the matter to be brought to a conclusion and received rather inconclusive responses. He has also now levelled a complaint at me because I am the registrant of the website. I am unclear as to exactly what this means as I have no involvement whatsoever with the website and can only conclude that my details appear as the registrant because I am the point of contact for the Parish Council.

It would appear from his complaint to me that he is looking for some form of financial compensation for the inadvertent use of his picture and the consequent loss of income and want me to suggest a figure. This I have refused to do as (a) I have no idea what it ought to be and (b) I believe that it is up to the claimant to set the figure.

Despite my best efforts, I have been unable to elicit from Mr Pettersen details of exactly what he requires to enable an outcome which is satisfactory to him.

I have therefore referred the matter to both NALC and the Council's Insurers for their advice. Before the solicitor from NALC would consider the matter, however, she requested a summary, which I provided on 15th November, a copy of which appears as Appendix 3 to this report.

At the time of writing this report I was waiting for their responses.

Members will no doubt appreciate that the above is a very abridged version of events and if any Member wishes to see the written complaint, Mr Patterson did supply an electronic copy as well as the hard copy, receipt of which I had to sign for and it appears as Appendix 1 to this report. I have also prepared a chronological history of the complaint detailing the various correspondence relating to it which was sent to both NALC and the Insures for their consideration. This is attached as Appendix 2 to this report.

As Members are aware, under the Council's Complaints Procedure, my first course of action is to try to resolve the complaint – even though it is against Cllr Blease, myself and the Council, I have treated it as a complaint against the Council. The Complaints Procedure also states that the Clerk or Chairman will bring any written complaint that has not been settled to the next meeting of the Council and the Clerk will notify the complainant of the date of that meeting.

It further states that the Complainant will be offered the opportunity to explain the nature of the complaint to the meeting. I have not afforded Mr Pettersen that opportunity as I was hoping that, upon receipt of the afore-mentioned advice, the matter could be resolved. As the financial loss to Mr Pettersen is not worsening (the document is no longer on the website), this can be done at the January meeting if deemed necessary.

In the meantime, I hope Members will agree to my continuing to deal with the matter, in conjunction with the Chairman, as we see fit.

I see no need for the matter to be discussed in confidential session at the present time. Hopefully, by the date of your meeting, I shall have the advice I have sought.

9. I circulated this to Members for information on 6th November. It gives details of upcoming planning conferences, one in Bodmin on 28th November and another at a location in the west of the county sometime in February. I assume that any Members who wish to attend will wait for the February event but I circulated it in case anyone wished to attend the Bodmin event. The cost is £12 per head.

JV Calvert,

Clerk

15th November 2017

Appendix 1 to AGENDA ITEM 21

A copy of the complaint may be seen upon application to the Clerk

Appendix 2 to AGENDA ITEM 21

HISTORY OF COMPLAINT FROM MR B PETTERSEN – USE OF HIS PICTURE ON COUNCIL’S WEBSITE

The following message was received via the Council’s website on 5th October 2017 at 15.18:

- **You have a new message:**
- Via: <https://www.stithiansparishcouncil.org.uk/>
- **Message Details:**
 -
 - **Name** Bernie Pettersen
 - **Email** bernie@bjp-photography.com
 - **Phone** written comunication only
 - **Subject** Image of Porthleven Bickford-Smith Institue on your website.
 - **Message** To: Stitians Parish Council. DTG: 041017 : 15:00 GMT. WITHOUT MALICE.
Sirs/Madams/Council. My name is Bernie Pettersen, I am a professional Photographer and hold the reserved Copyright for the image of my award winning ' Smooth harbour' image of the Bickford-Smith institute in the 2014 storm. As a professional photographer I make my monthly income from the sales of all my images, holding copyright and only permitting use under specific written licence and payment . My reasons for communicating with you is to request you provide myself with your licence reference and number. To date I have never openly agreed to any image being used under titling of ' climate change' and further ask you have evidential proof that my copyright image has specifically captured evidential proof of Climate change . Having made an evidential copy of both your page and this reply, simple deletion of my image without response is not acceptable. As a professional body I will expect a response from Stitians Parish Council; inclusive of licence reference. Yours in truth Bernie Pettersen. Professional Photographer.
- **Sent on:** 5 October, 2017
- Thank you!
Although the Clerk’s name and contact details appear on the website as the contact point for the Council, he has no direct access to the website other than as a member of the public. The Chairman, Councillor Phil Blease, set up the website and is the webmaster. The Clerk therefore forwarded this to him at 16.52 on the same day.

At 17.17, however, Cllr Blease, having received the same message from Mr Pettersen, sent the following to the Clerk:

Hi John

I have just received this email which is self explanatory.

I am the one responsible for using this image and in my enthusiasm to use exciting local images I appear to have used a copy righted version without permission. I am happy to write to the gentleman and apologising profusely explain that it was my oversight. I have of course immediately taken down the offending picture now that I have been made aware of it.

How should we proceed?

Regards

Phil

In the meantime, the Clerk had sent the following at 16.53:

Phil,

I'm clearly missing something here as I can't find the offending picture. Where is it?

Clearly, if it is there, it will have to be removed as we don't have the licence to which he refers and I'll have to do some grovelling!!

At 17.18, the Clerk responded to Cllr Blease's e-mail above wherein he asked how to proceed:

Hi Phil,

Is that why I couldn't find it? (See my e-mail to you)

I realise, of course that it woz U wot dunnit.

In my em I suggested I should do some grovelling but if you are willing.....

It should be noted that within two hours of being notified, the picture in question was removed. For clarification, it was actually contained in a document prepared (by Cllr Blease) for the Stithians Energy Group and published on the Stithians PC website.

At 18.18, Cllr Blease responded to Mr Petersen as follows:

Dear Mr Pettersen

Thank you for your message received today.

I am the one responsible for using this image and in my enthusiasm to use exciting local images I appear to have used a copy righted version of yours without permission. I apologise profusely and unreservedly. Having had this matter brought to my attention by you today I have, of course, immediately taken down the picture concerned.

I do try to keep the website interesting and use a lot of images, mostly my own taken whilst out walking. Occasionally I look for additional images and search for "free" images using Google. I can only assume that one of these searches lead me to your image and I clearly missed whatever licence or copy-right warnings there were. Sadly I cannot recall which site I found your image on.

Once more I apologise for my error and assure you it will not happen again and I trust we can leave the matter there.

Yours sincerely

Phil Blease

Chairman of Stithians Parish Council

& Webmaster

There was no response to this and it was assumed that that was the end of the matter.

On Friday 20th October 2017, however, both the Clerk and Cllr Blease received a letter from Cornwall Council dated 18th October advising that they had had a Code of Conduct complaint against them and the Council as a whole. Both were informed that the complaint had been rejected. There was no other detail but a phone call by the Clerk soon ascertained, despite data protection issues, that the complaint had been made by Mr Pettersen. The Clerk was informed that Mr Pettersen (although not mentioned by name!!) had been advised to contact the Parish Council.

On Saturday 28th October, the Clerk received, by recorded delivery, a written complaint from Mr Pettersen which amounted to some 24 pages, along with, very helpfully, a copy on CD. Hence a copy of the complaint accompanies these notes.

As Cllr Blease had been dealing with Mr Pettersen, it was agreed that he would respond to the complainant. The first opportunity the Clerk had to pass the complaint to Cllr Blease was on 1st November as he didn't realise that the envelope contained a CD.

In parallel with his complaint to the Parish Council, Mr Pettersen made a similar complaint to the Stithians Centre because Cllr Blease is also their webmaster and had placed the same document on their website. The contact for the Stithians Centre website is John Colgate and so the complaint was addressed to him. The Stithians Centre is completely independent of Stithians Parish Council, although it is represented on the Committee (by Cllr Howard Jones). Cllr Blease is a trustee of the Centre in his own right, not as a representative of the Parish Council.

Mr Colgate has had considerable correspondence with Mr Pettersen, copies of which could be made available if required. This document, however, is restricted to correspondence between the Parish Council and Mr Pettersen.

At 14.10 on 1st November, Cllr Blease sent the following to Mr Pettersen:

Dear Mr Pettersen

Thank you for your formal complaint which was received by the Clerk of Stithians Parish Council on Saturday 28th October 2017. I have been given the 24 page document today and will be responding in due course when I have chance to digest the contents.

Yours sincerely

Phil Blease

Chairman of Stithians Parish Council

At 16.25, Cllr Blease received the following from Mr Pettersen in response to his holding e-mail:

Written without malice.

Mr Blease.

Thank you for your initial acknowledgment response to my formal Complaint.

As mentioned, I accept that my complaint being one of formality, it is both verbose and lengthy. The reason is mentioned.

In total transparency I wish to identify that I am in correspondence with Mr Colgate in concern with my Copyright IP image content which was displayed without my permission, agreement or licence on his webpage.

In further transparency, Mr Colgate has verified your position as Trustee within The Stithians Centre.

Having submitted my formal complaint, I have made provision of a 14 day window from date of complaint to permit communications and allow redress to my formal complaint, prior to seeking further professional counselling. This date being that of 10th November 2017.

Having now received a response from yourself today, 1st November 2017, I would ask that you indicate, should you need more time to address my complaint; this to allow you realistic, in-depth, re-review of the damage done to my business by way of loss of licence revenue, by way of copyright infringement and myself by way of loss in moral rights.

Should I not hear to the contrary, and get no further correspondence before the mentioned date, I must assume that you consider all direct communications to myself as exhausted and will have no options but to escalate my complaint through legal channels.

I await in hope, for response and suitable resolve within the nominated time.

Written in truth and best beliefs

Bernie Pettersen

"Always use a Professional Photographer "

Cllr Blease sent the following to the Clerk at 16.39:

Hi John

I have forwarded you correspondence that John Colgate has had with Mr Pettersen. John also had a quick look at our paper complaint we had and they are different (ours are more detailed). I have just found a CD which is part of the complaint. We will see what reply John gets from his last email.

Do you have a copy of the complaint? If not I attach it as it was on the enclosed CD.

I am thinking of asking Mr P what outcome would represent a satisfactory conclusion for him as it is not clear from his complaint. What do you think?

Should I be the one to reply although I have already sent a holding email? I am happy to as it was my mistake that got us here but with my 5 hats, CM of SPC, VCM of STC, Webmaster for both, and SPC rep on SEG committee am I conflicted. What does our procedures say on the matter? Finally he seems to be addressing you in the letter.

I know that none of us need this but we must be seen to be addressing his "Formal Complaint" in the correct way.

Regards

Phil

At 17.06 the Clerk replied to him as follows:

Phil,

Regardless of conflicts, the complaint emanates from the SEG article which appeared on both websites and which was prepared by you. You are the webmaster and, whilst not trying to pass the buck, I feel that you ought to reply as if I do, I'll only be acting as middleman.

I'm happy to send Mr P an e-mail explaining that as you were the author of the report and the one who inadvertently used the picture on both websites, I have passed the matter to you to deal with. Unless you want to preface your response with words to that effect.

I note he is still not happy with the SC situation in that there's still something there and I trust you will address this. I now get the impression that he is after some form of financial compensation for loss of income from the fact that he wasn't paid for the use of the picture. What that will be, I have no idea but I think we could argue for a reduction of whatever it is on the grounds that it wasn't used for very long (Longer for the SC than SPC!!)

At 18.08 Cllr Blease sent the following to the Clerk;

Ok I will work on it tomorrow and preface my response with the words you suggest.

Regards

Phil

At 9.55 on 2nd November, Cllr Blease sent the following to Mr Pettersen:

Dear Mr Pettersen,

The clerk of Stithians Parish Council (SPC) has asked me to reply to your letter of complaint dated 27th October 2017 because it was my original error which is at the heart of your complaint. As you are aware I have apologised for this error and taken steps to rectify the matter as soon as I was made aware of it.

I am also aware that you have made a similar complaint to The Stithians Centre (TSC) and you have had several exchanges of correspondence with John Colgate. I am aware that you made John aware of a "hidden" page which was not accessible from the current TSC website however it could be viewed on the web if you knew the page address. This page did contain your image and again as soon as I became aware of that I immediately deleted it. I now would like to make a further apology for my mistaken belief that on the software I use the term "hidden" meant "no one could see it at all", which you have demonstrated not to be the case.

I would like to clarify the situation with regards to your complaint as I am in the unenviable situation of wearing 5 hats in this matter. I am Chairman of SPC, Vice Chairman of TSC, I am webmaster for both organisations and I am the SPC representative on Stithians Energy Group (SEG). SEG is a recently formed group and SPC has agreed to facilitate a web presence for SEG on the SPC website until the time that SEG can set up their own website.

In all the above roles I am, along with my fellow committee members and councillors acting in an entirely voluntary basis with no remuneration at all. We all donate our not inconsiderable time, energy and skills with an aim to improve things for the community in and around Stithians to the best of our abilities.

I am indeed very sorry that my actions have given you cause for complaint in your 24 page letter dated 27th October 2017 to SPC and the similar complaint to TSC. I am also embarrassed and somewhat distressed that my errors have caused this situation.

Having read your complaint document to SPC, I remain unclear what would represent a satisfactory outcome for you? Would you be so kind as to clarify your expectations to assist us in trying to move towards a mutual agreeable solution.

Please note I am away on holiday from Monday 6th November to Monday 20th November inclusive.

Yours sincerely

Phil Blease

Chairman of Stithians Parish Council

Mr Pettersen's response was forwarded by Cllr Blease to the Clerk at 1512 on 2nd November advising him that Mr Pettersen wished to hear from him. That response was as follows:

Written without malice.

Phil Blease

Chairman of Stithians Parish Council, Vice Chairman The Stithians Centre, SPC Rep to SEG , Webmaster SPC/TSC.

Thank you for your speedy continuance, something whilst in written form, I will always welcome.

I would further like to express my gratitude for your additional explanation as to your involvement in the creation of my Copyright infringement and loss of moral rights on two separate websites, without my knowledge, permissions or licence.

It is noticed and by your comments that you are in communication with both , Mr John Colgate, Ivydene, New Road TR3 7BL and Mr JV Calvert 18 Edward Street Tuckingmill, TR14 8PA , both registrants for separate websites and web pages where my IP Image unlawfully appeared.

To clarify; Mr Calverts name address and telephone number appeared on the specific WWWebpage, along with Copyright claim " Copyright (symbol) 2016 by Stithians Parish Council " . Please see digital copy of this page, already submitted .

It is with all due respect, knowing that you have communicated but without written confirmation from Mr JV Calvert, and truly seeking a swift amicable resolve, I consider it ill advisable and inappropriate to discuss matters pertaining to him directly, with yourself. Therefore, with reverence of facts, I think it incumbent that I request you invite Mr JV Calvert to communicate with myself directly, in written form only, via my previously provided addresses. Please see who is image, previously provided as a URL link.

I have noted your mention of unavailability from Monday 6th November to Monday 20th November inclusive.

I am aware that have discussed this with both website registrants. I am sure, having you acknowledged your full involvement to myself, providing comprehensive detail in writing of the infringements and morals rights issues on both separate websites; I am without doubt that such written documentation is similarly been provided for both Mr Calvert and Mr Colgate and therefore available to all concerned .

By way to hopefully expedite a satisfactory outcome, without need for me to seek further professional, legal advise, both registrants on first instance, need only to undertake direct communications with myself; hopefully having themselves sought professional advise and confirmation in regards to my formal complaint and lawful status.

Once more, written without malice, in truth and best beliefs.

Bernie Pettersen

"Always use a Professional Photographer "

The Clerk then sent the following to Mr Pettersen at 17.16 on 2nd November:

Dear Mr Pettersen,

I understand from my Chairman, Councillor Phil Blease, that you wish to hear from me concerning the formal complaint you have made against the Parish Council regarding the use of one of your pictures on the Council's website.

The reason for my not responding to you was because, as he had created the situation, I left it to the Chairman to deal with the matter. I had no involvement whatsoever with the preparation of the article which contained your picture nor with its posting on the website.

The Parish Council's website was set up by the Chairman and is administered solely by him. I have no access to it other than as a member of the public.

My name appears on the website as the point of contact for the Parish Council and for no other reason. I am not the Webmaster – the Chairman, when he remodelled the website, assumed that responsibility in order to relieve me of that duty in order to spend as much time as possible on other matters.

I am at a loss to know what else to say. The Chairman has apologised unreservedly for the oversight in using your picture without consent and I echo those apologies. As soon as you brought the matter to our attention on 5th October we took steps to address it and thought we had been successful, which I believe we were in respect of the Parish Council but not totally as regards the Stithians Centre which, as you know, has nothing to do with the Parish Council although Cllr Blease administers both websites.

Finally, I would respectfully request that you inform me as to how you wish to resolve the situation as I believe that all that can be done has been done. I believe both Cllr Blease and Mr Colgate have asked the same thing.

Mr Petersen's reply at 16.41 on 3rd November was as follows:

Written without Malice.

John V. Calvert, C.Eng., M.I.C.E., M.I.L.C.M. *Clerk to Stithians Parish Council*

Thank you for responding to my invite via Councillor Blease . I have read and your welcomed your response , I totally accept your reasoning for not communicating previously.

I have previously provided my beliefs and provided adequate written support to justify these in my formal complaint.

I further believe you understand that I refer directly to the now amended version of your WWW <https://www.stithiansparishcouncil.org.uk/stithians-energy-group> which was and remains in amended version, an open source World Wide Webpage, directly under your registrant.

In support of my written formal complaint I also provided the identical Word document in digital form on a CD, to permit ease in access to the mentioned URL links and provide a better view of images provided. I have attached two jpg images which reiterate my beliefs should they have been missed or not been seen clearly in print.

As this is an issue pertaining to tort law, I was facilitated with the ability to seek direct legal council to pursue all issues in my formal complaint, without following any of your Council grievance procedures myself. I would hope you accept this in least, this

would be both protracted and incur vast sums of legal fees, available to myself, however, something that would require repayment.

My most forthright and proper lawful option was, in good faith and practice, contact the Council to seek 'right to reply' in line with your complaints procedures; something I appreciate you have now been able to respond to, in person.

In this reply you make mention of ".....you wish to resolve the situation as I believe that all that can be done has been done. I believe both Cllr Blease and Mr Colgate have asked the same thing."

I see you mention Mr Colgate, I believe and think we agreed that we have established my formal complaint matters in this correspondence are directed to yourself and extend to transactions undertaken by Chairman, Cllr Blease on your website. Without permissions from Mr Colgate to discuss such; whilst wanting to be transparent in all undertakings, I think it improper for me to enter into specific discussions undertaken by myself with him.

I believe you now understand my persistence in this, and will, regardless, pursue it to a resolve.

You have asked how I wish to achieve such?

Whilst much welcomed, I had invited Councillor Blease, to extend an offer of direct communication, having you sought professional legal advice. It was hoped that this should assist confirmation and verify all legal stated in my formal Complaint.

Whilst it is not my duty to make certain comments, I wish to make it clearly seen, in writing, that I have made ALL efforts to avoid involvement of my legal representatives and subsequent fees involved, which I once more identify repayment would be required in of recompense along with subsequent redress for Copyright and moral rights issues.

In hope to assist in this I offer as further suggestion, that free legal advice without cost, is available from 'Citizen's Advice Bureau'

Whilst our views differ on your involvement, your own beliefs intact and the due diligence taken by yourself prior to you permitting access to your open source World Wide Website deemed acceptable at time; seeking suitable advise should grant you ease of mind and permit you to undertake your normal businesses away from this.

This said, I provide three proposed suggestions:

- 1) You seek Professional advice as earlier described and respond in accordance.

- 2) In the event of possible immediate absence of Councillor Blease, you seek assistance with any other known Stithians party, currently with similar issues; collating separate, independent, realistic and reflective financial proposals that represents the Copyright infringement and loss of moral rights caused by yourself on your specific website page <https://www.stithiansparishcouncil.org.uk/stithians-energy-group> myself inviting you to submit your intentions to myself in writing, before or by 17:00 on a previously proposed date of 10th November 2017.
- 3) You ignore this, my written response. Having read and understood my intent to pursue; should this occur.

As with all, I welcome any / all written constructive communications and seek your reply. I will await until 10th November 2017, (14 days after Formal complaint date) in hope you respond, either by requesting continuance time or by advising me alternatively.

Written without malice, in truth and best beliefs

Bernie Pettersen

"Always use a Professional Photographer "

The Clerk then sent the following at 20.02 on 3rd November:

Dear Mr Pettersen,

Your latest e-mail does little to assist me in understanding exactly what you are hoping to achieve as a result of your complaint. If anything, it only serves to make me more confused than ever.

You talk about me being the registrant. You need to explain this to me please as I have already told you that I have absolutely no control over the website. My name and address probably appears under something to do with the registrant because, as the Clerk, I am the contact point for SPC. As I have already told you, I have no access to the website other than as a member of the public – that is left solely to Mr Blease, who, in my opinion, has done all that he can to remove all traces of you and your picture. He has also offered his unreserved apologies. Neither do I “*permit access to (our) open source World Wide Website*” as you assert.

At the end of your e-mail, you give me three options:

1. I can't seek legal advice when I don't know what I am seeking advice upon. If you would tell me exactly what you expect, perhaps I could.
2. I don't fully understand this. Firstly you suggest seeking assistance with “*any other known Stithians party, currently with similar issues*”. The only other party with similar issues at present of which I am aware is the Stithians Centre and they are currently, through Mr Colgate, seeking the same clarification as I am. You then talk about “*collating separate, independent, realistic and reflective financial proposals that represents the Copyright infringement and loss of moral rights caused by yourself on your specific website page <https://www.stithiansparishcouncil.org.uk/stithians-energy-group>.*” As I have already explained, this was not caused by me. However, you then go on to invite me to submit my

intentions to you in writing. At present, I have no intentions and cannot have until you tell me, in words I can understand, exactly what you expect. I infer from your wording of this option, that you are seeking some financial recompense for the inadvertent use of your picture and consequent breach of copyright. If that is the case, then I do not see it as my place to make an offer. It is my experience that the party seeking damages states in the first place the amount being sought and that is what I am now seeking from you.

3. I don't see this as a viable option as you state that you would still pursue the matter.

I look forward to your further comments about the matter of the registrant but more importantly, I need you to place a monetary value on your claim and to inform me of anything else you require.

On receipt of that information, couched in a format that I can understand and as succinct as possible, I shall be able to consider the next step. Without it, I see no way of bringing the matter to a satisfactory conclusion.

FYI I have clicked the link in your e-mail and I see no sign of anything to do with you, which is what I would expect following the removal of the "offending" article on 5th October.

His reply at 18.55 on 8th November was as follows:

Written without Malice.

John V. Calvert, C.Eng., M.I.C.E., M.I.L.C.M. Clerk to Stithians Parish Council

Mr Calvert,

firstly please accept my apology for delay in reply, I am a reasonably uncolored in such council matters and as such, need seek clarification in understanding the most basic of matters in my beliefs.

With only basic education I once more offer apologies if my writing made little sense. I would hope that I can explain a little more and thus then permit you to read my previous in such way as it was meant.

I hope you read my wish for candour is marred by limiting my correspondence to you as an individual formal complaint, presented as one to isolate issues, identifying and addressing individual, traceable responsibilities. Yours being compounded only to actions of The Stithians Parish Website and the specific and now amended webpage : <https://www.stithiansparishcouncil.org.uk/stithians-energy-group>

This to assist myself with assurance and all parties in acceptance of proportional responsibility for the actions taken against me. Such is so, my unwanted to elongate matters with "he said to me, you said..." I have no doubt and hope that you are cross party conversing, however without permissions for yourselves to share such information, you will hopefully respect my inability to address individual parties specific actions and non-actions.

My further response in isolation of parties is that I may continue onward dialogue with one, should others deem it suitable to stall. I will disclose such to any other parties and hope that is acceptable reasoning as to my disregard of such until times

all accept and grant permissions in writing that any cross references made by myself are non-prejudicial and are to assist in identification by name rather than 'other parties'.

This said, I express my formal complaint individually away from any other party involvement and seek compliance in response as such to you as Clerk of the council and proper officer of Stithians Parish Council and expect individual resolve.

You sought reply to my earlier comments:

As globally recognised such electronic form, I consider the Stithians Parish Website to be an official formal Parish Council document. Stated www.stithiansparishcouncil.org.uk clearly on its page lists yourself, Stithians Parish Council copyright and registered Council address, that of the statutory Stithians Parish Council office holder, to whom the website is registered too. I believe irrespective of chosen author, you are responsible in way of duty of care to myself to ensure this formal Copyright by Stithians Parish Council "©2016 by Stithians Parish Council. "

Further as Proper officer of the Council, I believe you are responsible for legal matters pertaining to The Stithians parish Council and as such as the legal officer, this would then indicate you to be responsible for Stithians Parish Council copyright issues and assurance in its pertinence and compliance with UK laws.

Matters one refer to this above:

Matter two:

I would hope that you accept and understand being one of limited knowledge it is difficult to converse with differing persons at the same time. As such and without above agreements to retain best confidentiality, I have been in what **I hope ?** to be progressive discussions with another party.

I should hope you and any other parties involved accept and allow me to clearly mentioned themselves by name/title and describe specific conversations, clearly granted and encouraged amongst yourselves, without fear of prejudice or conflict.

I can only add that any confusion in matter two is clarified by the earlier comment that as such, to This to assist myself with assurance and all parties in acceptance of proportional responsibility for the actions taken against me. I seek individual responses and settlements through actions undertaken by website registrants.

I hope you are made avail in any recent other party discussions. If so, this I hope will assist in matter two.

Matter 3,

Solely is in response to your decision should you wish not to correspond further or it reach an acceptable result.

The matters of time involved to coordinating meetings has been made more apparent, therefore in light of such I have proposed a new time frame in way of final reply, this being that of 10th December 2017. I would hope this would give suffice time to congregate any needed Council and discuss an outcome, with hope of suitable resolve, I invite and welcome any written proposal to myself, on or prior to the 10th December 17 As way of hopeful final converse.

Should you be unwilling to permit this and without further communication of want of to seek a further continuance, I reserve right that should I find any resolve being one as 'final' without further discussion and deem it unsuitable, should it be presented with no platform for further redress, then I will seek further legal counsel.

I hope my poor grammar in this and my previous e-mail are acceptable and now reflects what was meant in this action previously.

Thanking you in anticipation for your continued response.

Without malice, in truth and best beliefs

Bernie Pettersen

"Always use a Professional Photographer "

The Clerk then replied at 20.27 on 8th November as follows:

Mr Pettersen,

Unfortunately your latest e-mail does little to further assist progress towards the resolution of your complaint.

As I understand it, from what you are saying, you are holding me, as registrant and "proper officer of the Council", responsible for material that appears on the Council's website. I make no further comment on that aspect at present as you already know the circumstances of how and why your picture appeared on the website.

You have not, however, addressed the other matters referred to in the third paragraph from the end.

Before considering the matter further, therefore, I need answers to some simple questions:

- 1. Are you seeking some form of financial recompense as a result of your complaint?*
- 2. If so, how much are you seeking?*
- 3. Bearing in mind that all traces were removed from the Council's website as soon as you made your first complaint on 5th October and you have received an unreserved apology, what else, if anything, do you require from me in order to bring the matter to a conclusion which is acceptable to yourself?*

Without this fundamental information I cannot progress the complaint any further.

Please, therefore, cut to the chase, give some direct answers to these direct questions and then perhaps the matter can progress.

This resulted in the following response at 17.56 on 9th November:

Written without Malice.

John V. Calvert, C.Eng., M.I.C.E., M.I.L.C.M. Clerk to Stithians Parish Council

Mr Calvert,

Thank you for your latest reply.

I note you want for forthright discussion by way of mention want of myself to 'cut to the chase', something I applaud.

To achieve such I leave the semantics of who, why, what, when? to others, hopefully away from any future need for involvement in legal counsel. With my beliefs intact but with want to deter further in way of identifying individuals and responsibilities I ask you accept the generic term of 'SPC'.

You ask to cut to the chase, further presenting three questions;

1. [Are you seeking some form of financial recompense as a result of your complaint?](#)

Answer :

Yes,

Having presented yourself with my beliefs, financial damage has been undertaken against my business by The Stithians Parish council by way of loss of fee in way of unauthorised use of my intellectual property without purchase of licence for use; further as recognised, it stripped of credit / ownership and appearing under copyright of "©2016 by Stithians Parish Council." This disadvantaging myself by way in loss of moral rights.

2. [If so, how much are you seeking?](#)

Answer

I find it almost impossible to accept that with my previous explanations and indication by way of losses that SPC are incomprehensive to have not immediately recognised, accepted and on first instance of communication, offered financial correction for recompense due.

RE: "Are you seeking some form of financial recompense as a result of your complaint?"

Reasoning.

Hopefully this will provide some assisted financial information for the Committee, with true want not to appear evasive, I consider any figure provided by myself may be seen as unrealistically and 'bias'. I hope my explanation will cover reasons as to why I have been unable to "get directly to the chase" from day one of formal complaint correspondence.

Hypothetically:, If I had been approached by SPC website prior to my IP image being unlawfully used in such ways as I have previously stated, I undertake care to ensure I am best represented and in return, the afford same to my client's. All fees for my services are based on individual requests and pertain to meet needs of both myself as provider and that of service user.

Such is, that agreement for licence is only permitted when certain criteria's on my behalf are met.

I oversee and restricting manipulation and over print-writing, Clarification in intention of use as such is discussed, in way of display and circulation and potential third party usage.

Identification of how many times my image will appear on page/site and discuss required Image size/s, fees per image displayed.

Discussion would have been in length of time of usage, further written assurance of safe and secure deletion of my images after licence time expires, with written declaration of non-further use of my image by the service user or third party (being usually web designers/printers) with none retention being agreed.

Further in way of sought fees discussion in benefits for any commercial use, all be it public awareness and or identification of financial gain it may reflect, not in cash figures but by way of proportion in its use.

One further question asked by way of market research normally in opening discussions "Thanks for contacting me, where did you see my image? "

This allows me to govern existing coverage, check copyright is granted, that it is used in compliance of agreed wording context and ensure correct licencing has been obtained.

None of this was made available to myself, rather SPC website stripped me of all, and deem free use of my IP under SPC self-regulative law.

For this I can only make assumption of what would have occurred versus what actually occurred on SPC website.

I have already stated, I am in receipt of average fees from Euro 100 to 220 Euro. Subject to agreed specifics your request would certainly met the lower figure should by pre-arrangement, been used for a more limited period. Subject to meeting terms, should a limited timescale of displayed use been discussed or sought I may, hypothetically have considered a monthly usage fee with certified promise of removal after a specific time.

Without specifics been discussed and agreed I base it only on what I am lead to believe.

Hypothetically This may have been as little as £ 20-30 per month, up to an agreed date. All other criteria's would have needed to have been met for any of this to happen in either fee terms.

Through pre- agreed, named credit, Copyright acknowledgment , IP image title (orphaned) retained copyright would have HAD to be clearly visibly displayed, this meeting all agreements within the licence and recognised retention in all rights reserved Copyright, then, compliance to licence agreement would be acknowledged.

Figures mentioned are what I believed at the time, prior to infringement, to be suitable. These figures do not reflect any additional fees for unlawful infringement of licence retrospective requests or, and most apparent, loss of moral rights.

Being the offended party; provision of an actual corrective amount is something that I, myself cannot place as an actual cash figure without being seen as unrealistic and of bias.

I consider such sum, no matter what, provided from myself, may only create more time consuming conflict between SPC and myself. Such figure been misconstrued as impractical and unrealistic by SPC due to possible discrepancies in SPC general current non comprehension, that any sum is lawfully due and further, differing in their beliefs; and of that of actual implicated facts in UK civil law, in these matters.

For myself to provide what would need be, seen as unbiased, unopposed official facts would require myself to further actively engage the use of copyright specialist representation. Something I still reserve rights for, should all amicable agreements not be able to be achieved,

However: I strongly wish to avoid this, due to my beliefs in SPC as a democratically elected committee being able to convene and seek an unbiased solution. Sadly should I need to escalate my complaint further legal costings in full, would eventually be deferred to SPC.

It is once more hoped that SPC can, gain free and impartial advise of their choosing to rightly identify in full, the actions undertaken by SPC against myself, in UK civil law.

This giving the Committee true guidance and provide a suitable and acceptable financial resolve.

Subject to such agreement I would consider and provide written documentation that would constitute a full and final resolve. This pertaining solely to SPC previous non-redacted website page : <https://www.stithiansparishcouncil.org.uk/stithians-energy-group>.

where my complaint to SPC rests. To non-complicate matters, such agreement would not transpose to anything incidental other parties, leaving any to respond autonomously and in self-accordance.

It is I am hoped that this be a suitable answer for your Committee to now convene and construct a solution.

It is I accept that certain members are currently unavailable, with Stithians Parish Chairman, Councillor Blease informing me of his unavailability to that inclusive of 20th November 2017, With better knowledge and understanding, I further accept 10th November to be unrealistic, therefore once more propose the date of 10th December 2017 as a further and hopeful conclusive date for direct discussions between SPC and myself.

I write in response as before and throughout, without malice, in truth and best beliefs

Bernie Pettersen

"Always use a Professional Photographer

The Clerk sent the following at 20.19 on 9th November:

Dear Mr Pettersen,

I can understand your reluctance to give an exact figure but at least hidden in all this is some idea of what you consider it could be.

I am clearly not going to get anything more definite from you so I think the time has come to seek advice.

This I shall now do and will then hopefully be able to advise the Council accordingly at their next meeting on 21st November.

This resulted in the following response at 10.08 On 10th November:

Written without Malice.

John V. Calvert, C.Eng., M.I.C.E., M.I.L.C.M. Clerk to Stithians Parish Council

Mr Calvert,

Thank you for your latest reply.

I am grateful of your acceptance in my response, having mentioned my truthful reasoning and rationale in hopes to assist and gain expeditious resolve rather than cause delays.

I would further like to extend my thanks to yourself for such prompt and forthright communication's up to date. I consider your responses most timely, progressive and welcomed.

Having provided ample representation and relevant information in my complaint, I read your response confirming you are able to make progress with such.

I understand you intend to present this to the Council on 21st November 2017. I would expect a short hiatus in our correspondence between such dates and hopefully it be able to reconvene much prior to the proposed date of 10th December 2017.

I once more extend every invitation to communicate in writing should this be required. Should I not hear in the interim, I ask acceptance for me to communicate closer to 10th Dec 17, in most simplest terms to seek news of any acceptable resolve, without this being deemed as harassment.

I ask now that with advise sought, my formal complaint is reviewed, full facts being made available to Stithians Parish Council Committee, presented with full disclosure, along with your sought advise and of information on current UK laws pertaining to my formal complaint.

Written throughout without malice, in truth and best beliefs

Bernie Pettersen

"Always use a Professional Photographer "

In the meantime, the Clerk had sent the following to CALC at 20.50 on 9th November for onward transmission to NALC:

Dear Sarah,

Further to my e-mail below, I have now heard further from the complainant.

I hope we can avoid litigation so I think in the first place some advice from NALC would be beneficial although I will speak to our insurers as well to give them the "heads up".

On the assumption that advice from NALC should be channelled through CALC, I attach the formal complaint and a document setting out chronologically the e-mail correspondence so far which actually goes back further than the formal complaint.

I suppose there are essentially two questions:

- 1. Is there a case to answer?*
- 2. If there is, how much should be offered by way of compensation?*

I trust you will forward this to NALC for their considered opinion and I hope the answers are somewhat simpler than the e-mails from the complainant!!

If possible, I'd like some advice on what course of action to take by the date of the next PC meeting on 21st November.

Thank you in anticipation.

As there is a possibility of litigation, on the advice of Sarah Mason of CALC, the Clerk spoke to the Council's Insurers at 11.50 on 10th November and was advised not to enter into any further correspondence with Mr Pettersen until they had assessed the claim. This was confirmed in an email received at 13.37 on 10th November:

Our ref: 5270960

Policy number: 24414511 CHC

Dear John,

Thank you for your time today, I'm sorry to hear of the allegations received. I've registered your claim under the reference above and have notified the insurer also.

Please provide a copy of the allegations received from the third party and any further correspondence to date. Once received, I'll liaise with your insurer Aviva for their advice on what liability you may have & how best to respond.

As soon as I have received Aviva's advice on how to respond to the claimant I'll be able to update you further. In the meantime, you are welcome to acknowledge receipt of the claim and advise you have notified your insurer, but please refrain from any further correspondence to avoid prejudicing your insurers position.

If you have any queries, please do contact me.

Josh Britcher Cert CII
Claims Handler

Came & Co Local Council Insurance

The Clerk forwarded this document along with Mr Pettersen's formal complaint to them at 14.06 on 10th November as attachments to the following e-mail:

Dear Josh,

Thanks for this.

There's no need to acknowledge the claim – the correspondence does that!!

He is also aware that I am seeking advice – he doesn't need to know that I've contacted our insurers as well.

Please find attached Mr Pettersen's complaint along with a document detailing, in chronological order, correspondence re his complaint.

I look forward hearing from you in due course.

The PC next meets on 21st November and a response by then would be greatly appreciated.

Thank you.

The Clerk received an e-mail from CALC at 15.45 on 10th November confirming that the documents had been forwarded to NALC.

As of 10th November there was one unknown: when the document first appeared on the website. Cllr Blease should know this but was on holiday, not returning until 20th November. The Clerk sent him both a text and an e-mail on 10th November asking for this information. Unfortunately, he couldn't answer "off the top of his head" and this information may not therefore be forthcoming until he returns from holiday. His best guess is sometime in May or possibly April, but no earlier.

Further correspondence with CALC is as follows:

Received on 14th November 2017 at 10.49:

Dear John –

Further to our exchanges, we duly sent off a request to NALC Legal, but today we have heard back from Meera Tharmarajah, Solicitor and Head of Legal Services, who says that she is currently unwilling to provide advice on the basis of the material sent to her.

She has asked you to provide a summary sheet of the case setting out the background and the problem issues – i.e. what has happened/ what are the concerns, along with the legal questions you require an answer to.

She said that if the Council has a Complaints Procedure it should use that to deal with the complaint received. I explained that there were particular questions you had about whether there was a case to answer (we did forward her your message below along with our request), but she wants a succinct summary of the background and then the points you'd like clarified. She said she will be happy to advise, once this is received.

I'm sorry to have to come back to you on this – I considered outlining a summary myself, but then thought it was dangerous to do this in case I misrepresented some aspect of the case.

If you can get something back to us asap we will forward it to her and hopefully get a response.

Kind regards-

Chris

Chris Burnham

Local Council Support Officer

Reply was sent at 16.56 on 14th November:

Hi Chris,

I hope this helps her, although I feel she still needs to look at both the other documents.

If you think I need to add anything please let me know.

A copy of the summary attached to this e-mail accompanies this document.

The following was received on 15th November at 09.59:

Dear John,

Many thanks for getting this over to us, I have now sent it off to Meera and hope that she will be able to respond promptly for you.

Best wishes,

Bethany

The following was received from CALC at 15.26 on 16th November:

Dear John –

As you know, we forwarded your summary to NALC legal yesterday and we have now had a response back from Jane Moore on their legal team. She phoned us to say that because the complainant had not specified the remedy he is looking for, it is very difficult to offer advice on this matter. You'll see that she suggests it is best addressed through your insurers, who can pursue the matter to ascertain what redress is being sought. They will also be able to decide whether to appoint a solicitor to act on your behalf to defend any claim. (As I think Sarah has mentioned in an earlier response), NALC is not able to represent the Council in individual cases.

I am sorry that we haven't been able to clarify the position further at this stage, but it seems the key thing is to establish what it is exactly the complainant wants – it will all follow from there.

Kind regards-

Chris

For information, Jane Moore's response is set out below:

Further to our telephone conversation of earlier today I confirm that NALC will not be able to advise on the matter.

The Council has not established what the complainant wishes to do. In my view the council should notify its insurers of the matter and if the council's coverage extends to legal cover, solicitors may be able to write to the complainant on behalf of the council or advise it accordingly. I do not believe there is anything further that NALC can add.

Kind regards

Jane

Jane Moore

SOLICITOR

National Association of Local Councils

This was followed by this from Sarah Mason at 17.43 on 16th November:

Dear John

As I expected, NALC is unable to advise you on this matter as it is outside of their remit to represent you. Assuming that you have by now contacted your insurance company, the Council will need to decide whether it needs legal representation at this time. If so the insurance company should be asked whether they wish to appoint a solicitor to handle the matter or whether they are happy for the council to use a local company.

Having read the lengthy correspondence and the original complaint I would suggest that you do seek a solicitor's help in reaching an agreement. It is very unclear from the quantity of the correspondence exactly what the complainant wishes to happen next, and I would hope that some form of legal guidance may help draw this out.

Unfortunately where a breach of civil law is done by an individual or outside body, perpetuating it is a repeat of the breach and there was a duty of care on behalf of the parish council to ensure that the article did not breach any copyright. The Council is therefore caught up in this and will need to respond as the corporate body, especially if it is seeking to use its legal insurance.

I am sorry that I cannot be of more help at this time but am here if you just want to discuss your options.

Regards

Sarah Mason

County Executive Officer

I replied at 10.08 as follows:

Sarah,

Thank you for your response and thanks to the others for dealing with NALC.

I have to confess to a certain amount of disappointment with NALC.

I am well aware that they cannot represent the Parish Council but I don't understand why they can't advise – surely that is part of what we pay our subscription for?

I've tried till I'm blue in the face to pin him down as to exactly what he wants but, as you know, I have failed.

Hopefully, I'll have more luck with the Insurers!!

Further correspondence with the Council's Insurers is as follows:

Received at 14.48 on 14th November:

Good afternoon John,

Thank you for the detail provided, that's great. Just to confirm receipt at present, I'm liaising with your insurer and will update you as soon as possible once I have their advice.

Kind regards

Josh Britcher Cert CII

Claims Handler

Came & Co Local Council Insurance

Sent at 09.47 on 25th November:

Thanks for this, Josh.

There is one thing they may wish to know and that is how long the document was on the website.

We can't be exact, but it would have first been posted probably in May 2017. It was, of course, removed within two hours of us being made aware of it on 5th October.

Whether this is relevant, I don't know.

Appendix 3 to AGENDA ITEM 21

SUMMARY OF COMPLAINT FROM MR B PETERSEN – USE OF HIS PICTURE ON COUNCIL'S WEBSITE

There follows a brief summary of the above complaint, full details of which can be found in the attached two documents: the formal complaint and a chronological history of correspondence between the two parties.

An e-mail was received on 5th October 2017 from Mr B Pettersen, a professional photographer, advising that one of his pictures had appeared on the Council's website in breach of his copyright.

It was removed within a couple of hours of receipt of the e-mail and an apology sent to Mr Pettersen explaining that it was an oversight as the webmaster was not aware that it was copyrighted. Indeed, he cannot now remember where on the internet he found it.

It is thought that the document was probably first posted on the Council's website in May or possibly April 2017, but this is not certain. It certainly was not before then. The Council has made no financial gain from its use and would never have used it if it had been known that it was copyrighted.

No response was received and it was assumed that the matter was closed.

On 28th October, however, both the webmaster (who happens to be the Chair of the PC) and the Clerk (named on the website as the registrant but who has no access to the website) received a formal complaint amounting to 24 pages from Mr Pettersen.

As it was he who had posted the document on the website, the Chairman tried to appease Mr Pettersen but he wouldn't accept this and insisted on corresponding with the Clerk. It was not possible to strictly adhere to the Council's Complaints Procedure as it was made against a Member, an Officer and the Council as a whole. The Clerk therefore entered into e-mail correspondence with the complainant but, after protracted exchanges, he could not ascertain from Mr Pettersen exactly what he wanted.

He seems to want some sort of financial compensation but is loath to state in any detail what he expects that to be or what else he might require. The Clerk does not see it as his place to make any financial offer and feels that if that is what he wants, Mr Pettersen should suggest a figure and also inform the Clerk of anything else he might require in order to resolve the matter to his satisfaction.

Having reached something of an impasse and not knowing what the next step should be, the Clerk is seeking a legal brain to ascertain, from the complaint received and the correspondence so far, which are detailed in the two documents appended to this summary, whether there is, in fact, a case to answer and what the next step should be.

The matter will be reported to the Council on 21st November and it is hoped that appropriate advice on how to proceed will be forthcoming in time for that meeting.

JV Calvert, Clerk

14th November 2017

AGENDA ITEM 23

Authorisation of Payments – November 2017

Decisions Required:

- 1. To approve payment of the sums shown in the report totalling £6,268.18 along with sums in any additional report which may be tabled at the meeting.**
- 2. To approve payment of any additional expenditure agreed by resolution during the meeting.**

Report:

1. The table below shows, as usual, invoices received since the last meeting as well as the usual monthly and other payments to be made. Figures in parentheses in the last column relate to the explanatory notes below the table.
2. Invoices received between the date of the circulation of this report and the date of the meeting will be reported at the meeting as appropriate in a report tabled at the meeting.

<i>Type</i>	<i>Date Due</i>	<i>Payee</i>	<i>For</i>	<i>VAT</i>	<i>Total Amount</i>	<i>See Note</i>
E	22/11	On Line Playgrounds	Sky Saw Seats	23.13	138.80	1
E	22/11	Clerk	November Salary		1,275.92	2
E	22/11	Clerk	October Expenses (Appendix 1)		13.05	
E	22/11	HMRC	Clerk's Tax under PAYE - October		318.80	
E	22/11	M White	Toilet Cleaning - November		81.97	
E	22/11	M White	Litter Picking - November		133.69	
E	22/11	Tyrone Martin	Playing Field Caretaker - November		598.33	
E	22/11	Tyrone Martin	Lower Churchyard - November		70.50	
E	22/11	Tyrone Martin	Cemetery Maintenance - November		50.42	
E	22/11	Tyrone Martin	Cleaning Longdowns Bus Shelters - Nov		28.45	
E	22/11	Tyrone Martin	Closed Churchyard Maintenance		1259.66	3
E	22/11	Tyrone Martin	Verge Maintenance		1430.16	3
E	22/11	Glenn Humphries	Footpath Maintenance - October	60.58	363.48	
E	22/11	Zip Wire Shop	Zip Wire	84.16	504.95	4
TOTALS					£6,268.18	
				£167.87		

Notes:

1. This matter is reported under Item 17.1. In order to obtain the seats, payment was required prior to delivery as it was below £200. I therefore made this payment on 3rd November. As Members are aware, the seats are now fitted.
2. This payment is the Clerk's gross salary (£1,594.72) less income tax due from the Clerk under PAYE for the month of November.
3. These payments are made annually in November rather than monthly.
4. It was agreed under Minute 19/10/17(4) to purchase a zip wire kit. Before they will dispatch it, however, payment is required.

JV Calvert,

Clerk & RFO

16th November 2017

Appendix 1 may be seen upon application to the Clerk.

AGENDA ITEM 23(A)

Additional Authorisation of Payments – November 2017

Decision Required:

Members are requested to approve the additional payments shown in the table below in the sum of £244.50.

Report:

Since the Agenda was circulated, the following invoice has been received:

<i>Type</i>	<i>Date Due</i>	<i>Payee</i>	<i>For</i>	<i>VAT</i>	<i>Total Amount</i>	<i>See Note</i>
E	22/11	<i>Tyrone Martin</i>	Weed Spraying		225.00	
E	22/11	<i>Tyrone Martin</i>	Fit replacement Sky Saw seats		19.50	1
<i>Totals</i>				£	£244.50	

Notes:

1. This is referred to in the notes of the Playing Field Progress meeting held on 13th November and reported under Item 17.1. By accepting these, Members have agreed this expenditure.

JV Calvert,

Clerk & RFO

21st November 2017
