

Minutes of a meeting of the **TYE COMMONS COMMITTEE** held on **Friday 6th March 2009** in Telscombe Civic Centre at 6.30 pm.

PRESENT

Councillors: Mr J Page (**Chairman**)
Mr T Armour, Mr R Maskell

Public Committee Members: Mr P Seed, Mrs E Bavestock
Ms S Bavestock, Mr R McKellar
Mrs G McKellar, Ms C Evans
Mrs J Rowland, Mrs C Marzillius

APOLOGIES

None.

The meeting was adjourned at 6.30 pm to take questions from members of the public.

There being no questions the meeting was re-convened at 6.32 pm.

24. **DECLARATIONS OF INTEREST**

Cllr Armour declared a personal interest as a Commoner.

25. **TO APPROVE AND SIGN MINUTES OF THE MEETING HELD ON TUESDAY 3rd FEBRUARY 2009**

The minutes of the above meeting were approved by the Committee and signed as correct by the Chairman.

26. **MATTERS ARISING**

There were no matters arising.

27. **VERBAL UPDATE ON PROGRESS RE TYE MANAGEMENT REPORT BY MR BOB MILTON**

The Chairman advised that the meeting would be as interactive and inclusive as possible and questions from the floor were welcome throughout the meeting.

Mr Milton advised that he had only just acquired access to East Sussex County Council files in respect of Bridleway 8 and the cattle grids. The information from the County Council documents needed to be included in his report. Mr Milton said a draft would be issued next week for consideration by Councillors. The Chairman advised that the final report would be published once Councillors have agreed the draft.

28. **PRESENTATION BY EAST SUSSEX COUNTY COUNCIL ON TYE BUNDING**

The Chairman introduced Mr Andy Robertson, the County Council's Assistant Director of Transport and Environment, to the meeting. Mr Robertson said he hoped to achieve two objectives from the meeting, firstly to update Councillors and residents on the latest situation regarding the bunding and secondly to establish the views of the meeting in respect of options for the bunding.

Mr Robertson outlined the history and roles of the various agencies involved in placing the bunding on the Tye. Mr Robertson emphasised that the decision of the planning inspector that the bunding should be removed was still in place.

Mr Robertson advised that the County Council had undertaken two tender exercises during 2008. The size of the bids resulting from the first exercise indicated that a re-tender would be necessary to conform to County Council tendering requirements. The re-tender exercise was put on hold as it was late in the year and the weather was becoming unsuitable for vehicle movements on the Tye. Prior to re-tendering later this year Mr Robertson said that it was proposed to undertake further investigation to help establish the nature of the material in the bunding. Mr Robertson advised that sampling the bunding material would help inform the re-tender process and provide information on exploring possible alternatives to total removal.

Mr Robertson outlined some possible options in respect of the bunding. It was emphasised the option to do nothing was not viable as the Enforcement Notice to remove the bunding remained outstanding.

The option to remove all the bunding was the most straightforward option as this could be undertaken in accordance with the requirement of the Planning Inspector's decision.

A further option may be to remove areas of bunding that are causing problems – these could be visually intrusive areas, areas of contaminated material or areas where the bunding was restricting access.

Mr Robertson said as controversy existed about the material in the bunding it was important to try and establish the nature of the material by intrusive investigation. The results of the investigation would assist in respect of drawing up an accurate tender specification for removal and help inform other options such as re-grading. Whatever option is agreed the proposal is for the County Council to go out to tender by late April so the work could be undertaken in the driest part of the summer.

Concerns were expressed by members of the Committee that that the bunding may contain hazardous material such as asbestos. A member of the Committee advised that photographs of builder's rubble included in the chalk placed on the bunding had been taken by East Sussex County Council and should still be in their records.

A member of the Committee asked Mr Robertson what the planning inspector would accept as an alternative to the total removal. Mr Robertson advised that there was some discretion and that there was no point in removing all the bunding if it was not causing a problem. Mr Robertson emphasised that if some parts of the bunding were made of inappropriate material they must be removed. A member of the Committee suggested that if there was room for a "common sense" solution it was important to establish the material in the bunding before

removal. Mr Robertson emphasised that the time limit for removal was now overdue. Mr Robertson advised that to satisfy the Enforcement Notice it had to be demonstrated that the visual intrusion had been removed and non inert and / or potentially hazardous waste material had also been removed. If these two factors could be achieved there was a strong argument that the terms of the Enforcement Notice had been satisfied.

A resident expressed concerns about removal as it was now an established part of the landscape and a habitat for slow worms and lizards. A member of the Committee expressed concern with the access at the north end of the Tye where the bunding made access difficult particularly in bad weather when walkers had to climb the bunding to avoid the water lying on the tracks.

A member of the Committee advised that category “A” asbestos had been found in samples taken from the bunding. The Committee member also explained that the clay cap placed over the bunding had eroded in places and that the bunding remained prominent in the landscape if viewed from Bevendean Avenue. The problem of run-off water being diverted by the bunding and causing further difficulties of access and erosion was raised by a Committee member. The issue of the new bunding being placed on top of old bunding not affected by the Enforcement Notice was also raised as a potential problem during any removal. A member of the Committee said it was impossible for disabled residents to cross the Tye due to the bunding.

Mr Milton advised that any works other than removal would require Secretary of State approval under section 38 of The Commons Act 2006 as new works. The Chairman emphasised that whatever works were undertaken would be properly done with the proper consents. Mr Robertson emphasised that the County Council were looking for a consensus view and emphasised that ultimately the cost of the works would have to be met by East Sussex County Council, the South Downs Joint Committee and Telscombe Town Council. A query was raised in respect of the necessity for the Town Council to contribute towards removal. The chairman advised that the Enforcement Notice had been served on the Town Council and that it was only due to prudent legal and professional advice that the liability of the Council had been reduced to £5,000 as opposed to a current cost of removal that could rise to £200,000.

In response to a question about possible chemical analysis of the bunding material, Mr Robertson emphasised that the proposal was to sample material and that a comprehensive analysis of the material could only be obtained by complete removal. Mr Robertson said that the County Council were not trying to overturn the planning decision but were seeking a common sense solution.

The Chairman emphasised that any works would be done with proper consents and requested the meeting consider approving the undertaking of intrusive sampling analysis on the bunding by the County Council. The meeting unanimously **agreed**. The Chairman advised the meeting that the Town Council would further consider the matter and a request would be made to support the County’s request for intrusive analysis at the next Council meeting.

29. **ANY OTHER BUSINESS**

There being no further business the Chairman closed the meeting at 8.33 pm.

Signed
CHAIRMAN - Cllr J Page

NB The next meeting of the Committee will be held on **Friday 8th May 2009 at 6.30 pm.**