

TEIGNGRACE PARISH COUNCIL

MINUTES OF THE FULL MEETING 2nd NOVEMBER 2021

Present: P. Adams, W. Coombes, A. Gale, J. Penfold
Cllr. G. Gribble, Cllr. B. Thorne

Apologies: J. Martin, R. Page, Cllr. D. Rollason

37/21 MINUTES:

Minutes of the Full Meeting held on 7th September 2021 having been circulated, were agreed and signed.

Proposed by A. Gale, seconded by W. Coombes.

38/21 MATTERS ARISING:

Speed Limit in Village: Digital speed warning sign. Cost is £2400. Agreed to purchase a sign. Cllr. G. Gribble will provide funding. Cllr. G. Gribble will forward application forms to P. Adams. {06/07/2021}

Ventiford Basin: J. Martin reported that the Lifebuoys are being ordered. No update. {03/03/2020}

Flooding: Marker board for other direction. P. Adams to contact D.C.C. Highways. No response. {03/03/2020}

Village Field - Business Support Grant: Maybe investigate Air Source Heating Grant. P. Adams to ask for an update from the Teigngrace Land Charity. {03/11/2020}

Stover Canal Trust: No further update regarding Sluice or Basin grant. {06/07/2021}

Highways Issues: Road collapsing into ditch on opposite side to Oak Tree. Entered on <https://www.devon.gov.uk/roadsandtransport/report-a-problem/> website. Still has not been repaired. D.C.C. have visited and could see nothing wrong. Problem re-logged with D.C.C. {07/09/2021}

Ash Dieback: J. Penfold reported that there is Ash Dieback in the Village Filed Boundary hedge with the Old Rectory. P. Adams to write to Savills to confirm hedge ownership and responsibility. {07/09/2021}

39/21 FINANCE:

Statement balance 01/10/2021 was £13543.61.

Half Year Precept Received 29/09/2021 £1000.00.

Cheque 000188 cancelled for £500.00 Teigngrace PCC, Grant. 07/09/2021.

Cheque 000189 cashed for £55.14. P. Adams, Defibrillator Pads. 10/09/2021.

Cheque 000190 raised for £500.00 Teigngrace PCC, Grant. 02/11/2021.

Cheque 000191 raised for £424.52. Zurich Insurance. 02/11/2021

Cheque 000192 raised for £92.08. P. Adams, Domain and Website. 02/11/2021.

Cheque 000193 raised for £492.00. Tozers Solicitors Invoice 57553. 02/11/2021.

Precept: It was agreed for this to remain at £2000 for 2022.

Proposed by P. Adams, seconded by W. Coombes.

40/21

PLANNING:

1, The Linney, Teigngrace
Appeal Reference Number 21/00023/REF
Dismissed

1, The Linney, Teigngrace
Appeal Reference Number 21/00024/REF
Dismissed

Ref: 21/02121/FUL

Location: TEIGNGRACE - Middlepark Yard Caravan, Teigngrace
Proposal: Replacement of residential mobile home with a dwelling
Applicant: Mr J Sanders

Web Link:

<https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=21/02121/FUL&MN=Y>

No objections.

[4 For, 0 Against]

41/21

TEIGNGRACE ENVIRONMENTAL TRUST:

Santander Balance is £251.88 as of 02/10/2021.
Interest Received £0.01 on 02/09/2021.
Payment of £708.00 on 08/09/2021. Tozers Solicitors Invoice 54889.

CAF Share Holding is 20841.8358 shares at £2.06530 per share, (£43044.64) as of 30/09/2021.

James Evans of Tozers Solicitors wrote:

Please find attached for your kind attention and invoice and breakdown covering the further input provided earlier this month in finalising the Deed of Variation. I have slightly discounted the time charges to keep the invoice within estimate.

Teigngrace Parish Council to pay Tozers Invoice 57553 for £492.00 as there are insufficient funds in the Teigngrace Environmental Trust Santander Account and we are still unable to access the CAF Trust Fund. This will be repaid to the Parish Council once the CAF Trust Fund can be accessed.

Scott Yates of the Charity Commission wrote:

RE: TEIGNGRACE ENVIRONMENTAL TRUST – 1098922

Thank you for your email and I apologise for the delay in replying to you.

We note that in the Deed of Variation (DOV) you have introduced a dissolution clause. This is classed as a 'regulated' change.

Our general position is that a dissolution clause cannot be introduced to an existing charity's governing document unless the charity has a clear power to do so (for example in their governing document). Charities cannot use the statutory power of amendment (s.280) to introduce a dissolution clause.

If a charity with no dissolution clause wishes to wind up and all their assets are expendable (i.e. no permanent endowment and no designated land) they can wind up by applying or spending all their money and other assets on the purposes on the charity. This means the charity ceases to exist as it has no assets.

In view of the above, could you please provide a copy of the DOV drawn up and passed WITHOUT the dissolution clause.

We also note that the income of the charity is listed as £3.00 and the charity's expenditure, for the last 17 years has been zero. Can you please explain the reason for this, and describe the activities the charity is currently undertaking?

You have previously provided 2 documents:

- 1. A handwritten note from the charity meeting held on 3rd March 2020*
- 2. Minutes from Teigngrace Parish Council AGM held on 3rd November 2020*

Unfortunately, we are not able to accept these documents as if they were resolutions as they do not contain the relevant information. A resolution must contain;

- the charity's name and registration number
- date of the meeting
- declaration the meeting was quorate, and decision reached in line with the voting and meeting provisions
- clarification which power is being used to amend the governing documents
- which clause of which governing document is being altered or where an additional clause is being inserted
- the exact wording of the clause
- how the resolution was passed (for example 'at an annual general meeting by a majority of X' or 'unanimously')

I would be grateful if you could please provide a resolution which contains the relevant information as detailed above. We can then ensure the Register is accurate and up to date.

James Evans of Tozers Solicitors wrote:

I am sorry to hear this is continuing to cause difficulty.

On the dissolution clause point, I think the Charity Commission are wrong. The existing Trust Deed at clause U provides the trustee(s) with an express power to amend the Trust Deed which is sufficiently flexible to allow the trustee(s) to introduce a dissolution clause. It is on the basis of that clause that the Deed of Variation was prepared. The Commission seem to be taking the view that we are using the procedure under section 280 Charities Act 2011 to amend the Trust Deed (which if we were, I would agree with the CC's position) but we are not using that procedure here.

Having said that, I recognise the need for the charity to adopt the DoV as soon as possible and so I am not convinced it is in the charity's interests to argue the point given the further delay this will cause and I suggest we take a pragmatic approach at this stage. On that basis I attach a revised version of the DoV excluding the dissolution clause for re-execution by the Parish Council.

I agree it is very frustrating that they have taken such an inconsistent approach with the minutes but again it is likely to be best to provide them with what they have requested. Do let me know if you need further input from me on that.

I hope this will enable you to progress matters but if you have any queries, please don't hesitate to give me a call.

P. Adams replied to the Charity Commission:

Dear Scott,

1) Regarding the Dissolution Clause, I have spoken to the Teigngrace Environmental Trust Solicitor and he has responded as follows:

"I am sorry to hear this is continuing to cause difficulty.

On the dissolution clause point, I think the Charity Commission are wrong. The existing Trust Deed at clause U provides the trustee(s) with an express power to amend the Trust Deed which is sufficiently flexible to allow the trustee(s) to introduce a dissolution clause. It is on the basis of that clause that the Deed of Variation was prepared. The Commission seem to be taking the view that we are using the procedure under section 280 Charities Act 2011 to amend the Trust Deed (which if we were, I would agree with the CC's position) but we are not using that procedure here."

2) Regarding the activities of the Trust:

I will re-iterate what I have told your colleagues in the Revitalising Trusts programme.

"Considering that we are changing over to a new way of managing the Charity (as part of the Parish Council), during the Covid-19 pandemic, with no access to any funds, this seems a little unfair to be pressurising the new trustees, when you have left this for 15 years.

As I said in my previous email, our focus at present is getting access to the funds (in CAF) and getting the Trust Document amended by a solicitor so that CAF are satisfied."

3) Regarding the previously supplied documents:

These appeared to be satisfactory on the 19th April 2021 as you stated:

"RE: TEIGNGRACE ENVIRONMENTAL TRUST - 1098922

Many thanks for your email and the attached minutes.

I can confirm that the Register of Charities has now been updated to reflect the administrative amendment. For clarity, the charity's governing document is:

DECLARATION OF TRUST DATED 2 JULY 2003 AS AMENDED ON 03 NOV 2020

Thank you for your patience."

Is it the Resolution Document that you require for the Deed of Variation, that the Teigngrace Parish Council passed on the 7th September 2021?

The Deed of Variation itself covers the points:

- which clause of which governing document is being altered or where an additional clause is being inserted*
- the exact wording of the clause*

Does this need to be written out again, as we were voting on the Deed of Variation as a complete document?

Hopefully you be able to get back to me quickly, so that we can gain access to our funds held with CAF and re-activate the Trust.

P. Adams replied to the Charity Commission:

We have not received any response to my email below, sent on 15/10/2021.

We have a Trustees meeting this evening, so it would be good to know if we need to do anything further for you in order to move this forward.

No response.

Proposed A. Gale, Seconded W. Coombes. [4 For, 0 Against].

42/21

A.O.B.:

Highways Issues: Teigngrace sign and junction warning sign needed to point down left-hand junction on A382. Cllr. G. Gribble to look. {02/11/2021}

Service trench outside Greenacres. {02/11/2021}

Stover Park Plan: Cllr. B. Thorne asked what our main concerns were regarding the proposed Stover Park Plan. Provision of suitable infrastructure (parking) and traffic speed of those visiting the Park. We are also concerned by the proposed scheme for dealing with the hazardous silt. [02/11/2021}

Meeting closed 20:27.

PLEASE NOTE THE NEXT PLANNING MEETING WILL BE ON 7th DECEMBER 2021, THE NEXT FULL MEETING WILL BE ON 4th JANUARY 2022.