

No.

WELSH CHURCH ACT ESTATE COMMITTEE

Minutes of a remote meeting held on 31st January, 2022.

The Committee agenda is available [here](#).

The Meeting recording is available [here](#).

Present: Councillor M.R. Wilson (Chair), P. Drake (Vice-Chair); Councillors J.E. Charles, G.A. Cox, R. Crowley and S.T. Wiliam

Also present: Councillors K.P. Mahoney, R. Nugent-Finn and R.A. Penrose.

811 ANNOUNCEMENT –

Prior to the commencement of the business of the Committee, the Assistant Democratic Services Officer read the following statement: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing.”

812 MINUTES –

RESOLVED – T H A T the minutes of the meeting held on 4th October, 2021 be approved as a correct record.

813 DECLARATIONS OF INTEREST –

Councillors P. Drake, J.E. Charles and S.T. Wiliam declared on interest in Agenda Items 7 and 12 (Cadoxton Community Orchard Proposal – Part I and Part II) in that they were also members of Barry Town Council. They vacated the meeting prior to the presentation of the report under agenda item 12.

814 LAND AT CASSY HILL, CADOXTON – UPDATE (CX) –

The Operational Manager for Property presented the report which updated Committee regarding progress made since their resolution in June, 2021 to dispose of the land at Cassy Hill to an applicant on terms and conditions to be agreed. Heads of Terms had been drafted in consultation with the Committee Chair and subsequently agreed with the applicant, with Legal officers instructed to prepare sale documents based on the agreed Heads of Terms.

Since that time, representations from the local residents had been received, and both parties had been invited to address Committee in order to outline their respective positions.

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At this time the Chair invited the first party (the applicant), to address Committee, and his representations could be summarised as follows:

- The land in question was adjacent to his property and at present, as there was only one route in and out of Cassy Hill, drivers frequently used his driveway to turn their cars around. His intention in purchasing the land was to provide better access and relieve congestion in the area.
- While the land had been levelled it was still not good for access, and he would therefore intend to cover it in tarmac.

In response to points of clarification raised by Councillor Charles, the applicant advised of the following:

- The business he owned would not impact on usage of the land, as his van was parked on the driveway of his property and his workshop was located at another premises.
- The Heads of Terms drawn up regarding the sale stipulated that access to the land could not be blocked or restricted, and Mr. Shier wished to assure Trustees he would therefore would not be parking in a manner which blocked access as his intention was to create a turning circle for vehicles.

The Chair thanked the applicant for his time and subsequently invited a representative of the local residents to address Committee and his representations could be summarised as follows:

- The steps to the front of the properties along Church Terrace were very steep, and elderly residents found it easier to access their properties via the land in question. As such, the residents had always cleared the land and had recently done so at their own expense.
- Residents had been advised previously they wouldn't be able to make changes to the land as it was private and its boundary wall was a supporting wall for a conservation area.
- There was a concern that if the land was covered in tarmac, water would run into adjacent properties as drainage in the area was poor.
- Information regarding the proposed sale had not been comprehensive as it wasn't clear if it referred to the whole of the land or just a part of it.
- Residents had not been advised of the proposed sale until they had cleared the land at their own expense.

In response to points of clarification raised by Trustees, the residents' representative advised of the following:

- This meeting had been the only opportunity for residents to provide feedback on the proposed sale, they had not been consulted with by the Qualified Surveyor appointed by Committee.
- Residents of Church Terrace were interested in purchasing the land.
- Residents wouldn't necessarily be assured by a legal obligation to not block the land as there was photographic evidence of previous blockage, which Mr. Finch offered to provide to Committee.

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- The residents had only noted one particular vehicle blocking access which belonged to residents living at Cassy Hill, and their bins had also blocked access previously.
- There had been flooding in the area previously due to a nearby brook, although residents had now laid the land with recycled stone to mitigate this.
- There had been fly-tipping on the land previously.

The Chair thanked the residents' representative for his time and asked that he liaise with the Assistant Democratic Services Officer in order that any photographs could be submitted to Trustees for their consideration. The Chair subsequently invited Councillor Nugent-Finn, not a member of the Committee, to address Trustees, and her representations could be summarised as follows:

- The Councillor had met with and undertaken site visits with residents of Church Terrace, and had heard concerns regarding historic and current use of the land and issues regarding access to both Church Terrace and Cassy Hill, some of which had related to land ownership and potential future use.
- The land in question provided access to residents of both Cassy Hill and Church Terrace and the Councillor had therefore sought to establish facts regarding ownership and boundaries with Council Officers.
- Front access to the properties on Church Terrace was via very steep incline steps and, as one resident used a wheelchair, access via the land on Cassy Hill was very important. It was also useful for emergency vehicles if required and as such, the Councillor had made enquiries regarding levelling up the land and installing gates to ensure access for all.
- Having made enquiries with Officers the Councillor was advised of the proposed sale and that no consultation had taken place with Church Terrace residents. She therefore contacted the Officers handling the sale and requested that it be halted pending further enquiries.
- She wished to ensure that the facts were established regarding deeds, ownership, maintenance of the boundary wall, and that the land would remain accessible to all.

In response to a point of clarification Councillor Nugent-Finn confirmed that the only suitable access for elderly residents and emergency vehicles was via the land.

The Chair subsequently thanked Councillor Nugent-Finn and all other parties for their time and contributions.

Committee subsequently

RESOLVED – T H A T the contents of the report be noted and the detail contained within the Part II report later on this agenda be considered.

Reason for decision

To enable a decision to be made under Part II of this agenda.

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815 INVESTMENT MANAGEMENT STRATEGY REVIEW (CX) –

The Operational Manager for Accountancy presented the report, the purpose of which was to progress the Welsh Church Act Estate Investment Strategy Proposals.

The Welsh Church Act Trust (WCA) currently held £1.905m (£1.857m as at 31st March, 2021) in Investments which were managed on a discretionary basis by Tilney Investment Planning Ltd.

At the meeting of 4th October, 2021 Committee resolved to progress a transfer of investments to two or three common investment funds. The report requested authority to appoint Link Group who were the Vale of Glamorgan Council's Treasury Management Advisors to support officers in identifying a suitable mix of funds for investment.

Having fully considered the report it was subsequently

RESOLVED –

- (1) T H A T the appointment of Link Group to provide advice and support in identifying a suitable mix of collective investment funds for investment be approved.
- (2) T H A T Delegated Authority be given to the Operational Manager Accountancy in consultation with the Head of Legal and Democratic Services/ Operational Manager for Legal Services to implement the recommendations of the investment review.

Reasons for decisions

- (1) To ensure that the Vale of Glamorgan Welsh Church Act Investments are structured appropriately with regard to independent investment advice.
- (2) To ensure that the recommendations of the investment review are implemented in a timely manner.

816 LANE TO THE REAR OF CHURCH ROAD, CADOXTON (CX) –

The purpose of the report was to update Committee on progress since the last resolution of Committee that the owners of the properties at Church Road adjacent to the land be contacted and advised of a possible opportunity to gain possession of the land.

Officers had approached all owners of the properties backing onto the lane and the outcome of their consultation was reported under Part II of the agenda. Committee therefore subsequently

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RESOLVED – T H A T the updated position be noted and instructions be provided on how the Committee wishes officers to progress following consideration of the report outlined in Part II of the Agenda

Reason for decision

To enable a decision to be made under Part II of this agenda.

817 CADOXTON COMMUNITY ORCHARD PROPOSAL (CX) –

The purpose of the report was to advise Committee of a proposal that had been submitted by Barry Town Council in respect of land adjacent St Oswald's Road, Cadoxton in respect of a Community Orchard proposal.

The Operational Manager for Property advised that a proposal dated 21st November, 2021 from Barry Town Council had been received by officers on 24th November, 2021 and was attached as Appendix B to the Part II report on the agenda.

Committee subsequently

RESOLVED – T H A T the proposal submitted by Barry Town Council be noted and the details of the request be considered under Part II of this Agenda

Reason for decision

To enable a decision to be made under Part II of the agenda.

818 LAND AT GLEBE FIELDS, SULLY – TOWN AND VILLAGE GREEN INQUIRY APPLICATION (CX) –

The purpose of the report was to notify Committee that an Application to register the Trust's land at Glebe Fields, Sully had been submitted to the Vale of Glamorgan Council in its role as Commons Registration Authority, pursuant to Section 15(2) of the Commons Act 2006. A copy of the Application was attached at Appendix 1 to the report.

The Principal Lawyer presented the report which advised that the Trust needed to consider how it would respond to the Application given the potential financial impact a successful Town and Village Green Application may have on the value of the land. Subject to the consideration of further detail to be provided under Part II of the agenda, the report recommended that delegated authority be provided to Officers to instruct a specialist external Barrister to act on behalf of the Trust in respect of the Application.

The Chair noted that Councillors R.A. Penrose and K.P. Mahoney, who were not Trustees but had submitted Evidence Questionnaires in support of the application,

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were present at the meeting, and he invited them to address Trustees on the matter should they wish to do so.

Councillor Penrose thanked the Chair for affording him the opportunity to speak however he advised that he was in attendance to observe the meeting and ensure the application was being processed correctly, and therefore did not wish to address Trustees on the matter.

Councillor Mahoney's representations to Committee could be summarised as follows:

- In referring to a previous agenda item, the Councillor queried advice given in respect of a previous application relating to Glebe Fields that the site would need to be put out to auction.
- Advice received by Committee (when the Councillor had been a Trustee) in respect of previous applications regarding the site had indicated that Trustees wishing to dispose of the land could be surcharged due to a 'hope' valuation of the site. In consulting with two external solicitors Councillor Mahoney had been advised this was not the case.

In response to a query from the Principal Lawyer both Councillors confirmed that as they were not Trustees and had attended the meeting intending to observe the process only, with the Chair subsequently having offered them an opportunity to speak, and they were therefore not required to declare an interest in the agenda item. Councillor Mahoney highlighted his comments had been made in respect of previous applications and not the matter at hand. Both Councillors also confirmed that they understood they would not be able to remain in the meeting and observe the debate on this item under Part II of the agenda.

Councillor Charles asked whether Charity Law overrode the Trustees and how they felt regarding applications, as the Welsh Church Act stated that Trustees could take into consideration the potential benefits to local residents. The Councillor was concerned that the advice provided to Trustees supported objectives of the Vale of Glamorgan Council.

The Principal Lawyer's response to the queries raised could be summarised as follows:

- The advice provided in relation to the disposal of any land had been that disposal must be carried out in accordance with a Qualified Surveyor's report, as set out by the Charity Act. As such, the advice provided differed between sites depending on the findings of each Qualified Surveyor's report, which was why the advice referred to by Councillor Mahoney had been provided in respect of Glebe Fields but not other sites.
- Those who sat on the Committee were Trustees for a Trust Fund and as such were subject to the scrutiny of the Charity Commission, and advice provided previously had been that Trustees needed to act in accordance with Charity Law. Therefore, if Trustees resolved to do something other than act in accordance with a Qualified Surveyor's report and, for instance, lost a significant amount of money in doing so, the Charity Commission

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could choose to investigate this and take further action within its remit if deemed necessary.

- The Welsh Church Act did list factors that Trustees could take into consideration in reaching a decision, however if a decision was taken which went against the requirements of the Charity Commission, Trustees may be requested to advise the Commission of the reasons why that decision had been taken. The Officer's intention was to advise of what could potentially happen to Trustees and to ensure that they were protecting themselves, however if it was felt that more specialist legal advice was required this could be obtained.
- Officers in attendance at the meeting were present to advise Committee Members as Trustees, not as Vale of Glamorgan Councillors, and any advice given was provided with the objective of advising Trustees regarding their role as such.

Having fully considered the matter and the further detail provided by Officers under Part II of the agenda, it was subsequently

RESOLVED –

(1) T H A T it be noted that a Town and Village Green Application had been made in respect of the Land.

(2) T H A T, following consideration of the Part I report and the report in Part II of the agenda, delegated authority be granted to the Head of Legal and Democratic Services/Operational Manager for Legal Services (in consultation with the Operational Managers for Accountancy and Property) to consider the Application and respond to it within the timescales required by the Commons Registration Authority.

(3) T H A T delegated authority be granted to the Head of Legal and Democratic Services/Operational Manager for Legal Services (in consultation with the Operational Managers for Accountancy and Property) to instruct a specialist external Barrister to act on behalf of the Trust in respect of the Application, including but not limited to: advising on the merits of the Application; drafting an objection to the Application; appearing on behalf of the Trust in any Public Inquiry which may be held in respect of the Application.

Reasons for decisions

(1) To note the and acknowledge the making of the Application.

(2) To allow Head of Legal and Democratic Services/Operational Manager for Legal Services to respond to the Application within the timescales required by the Commons registration Authority.

(3) To allow specialist legal advice to be taken to ensure that the Trustees are complying with their duty to protect the interests of the Trust.

819 EXCLUSION OF PRESS AND PUBLIC –

RESOLVED – T H A T under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 4 of Schedule 12A (as amended) of the Act, the relevant paragraphs of the Schedule being referred to in brackets after the minute heading

820 LAND AT CASSY HILL, CADOXTON (CX) (EXEMPT INFORMATION – PARAGRAPHS 12 AND 14) –

The Operational Manager for Property presented the report which provided an update to Committee following the last resolution of Committee in June 2021 to dispose of the land to the applicant in accordance with the recommendations of the Qualified Surveyors report.

The report outlined subsequent events involving local residents and Elected Members which had halted the progress of the sale, as had been alluded to in verbal representations made under Part I of the agenda. The report requested that Committee consider how they wished to progress the matter, bearing in mind their duty to manage lands and property held by them in accordance with the Scheme of Trust and with Charity Law, and that their decisions should be consistent with the Charity Objects and powers.

Following the Officer's presentation of the report, discussion ensued, with Trustees asking Officers for guidance regarding the appropriate options available to the Trust in relation to this matter. Having given full consideration to the contents of the report and Officers' guidance it was subsequently

RESOLVED –

(1) T H A T the matter be deferred in order that Trustees can visit the site in question prior to further consideration at the next Committee meeting, to be convened as soon as practicable.

(2) T H A T the parties who had made representations to Trustees under Part I of the Agenda be contacted prior to the next Committee meeting and invited to submit any additional substantiating evidence for Trustees' consideration.

Reasons for decisions

(1&2) In order that Trustees understand the full context of the site in question and are fully informed prior to consideration and determination of this matter.

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821 LANE TO THE REAR OF CHURCH LANE CADOXTON (CX) (EXEMPT INFORMATION – PARAGRAPHS 12 AND 14) –

The Operational Manager for Property presented the report which provided an update to Committee on progress made since the last resolution of Committee.

Following the previous meeting in October, 2021, Officers in the Council's Estates team had written to all home-owners along Church Road to gauge the level of interest from residents to acquire the land to the rear of their properties. Where no responses were received from the initial letter, a follow up letter was sent in December 2021. The report outlined what response there had been to this consultation and the challenges presented by the possible next steps for Committee to take in disposing of the land.

Following the Officer's presentation of the report, discussion ensued, with Trustees asking Officers for guidance regarding the appropriate options available to the Trust in relation to this matter. Having given full consideration to the contents of the report and Officers' guidance it was subsequently

RESOLVED –

- (1) T H A T the updated position regarding the Lane to rear of Church Road, Cadoxton be noted.
- (2) T H A T no further action regarding the matter be taken at this time.
- (3) T H A T delegated authority be granted to the Operational Manager for Property, Operational Manager for Accountancy and Principal Lawyer, in consultation with the Chair of this Committee, in respect of any maintenance requirements necessary for the site.

Reasons for decisions

- (1) Having regard to the contents of the report and discussions at the meeting.
- (2) The outcome of the consultation had not given a clear indication of how best to progress the matter.
- (3) To allow Officers to authorize maintenance of the site on behalf of the Trust as needed following consultation with the Chair.

822 CADOXTON COMMUNITY ORCHARD PROPOSAL (CX) (EXEMPT INFORMATION – PARAGRAPHS 12 AND 14) –

The Operational Manager for Property presented the report which provided Trustees with detail regarding proposal received from Barry Town Council in respect of a request to lease land owned by the Trust at St Oswalds Road, Cadoxton for the purpose of developing a Community Orchard/Meadow. A site

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plan was attached at Appendix A to the report, and the proposal itself was attached at Appendix B.

The report advised that the Trust were required to consider this matter in the context of requirements as set out in Charity Law, and as such Trustees asked Officers for guidance regarding the appropriate options available to them in relation to this matter. Having given full consideration to the contents of the report and Officers' guidance it was subsequently

RESOLVED -

(1) T H A T the proposal from Barry Town Council in respect of the land in the Trust's ownership at St Oswalds Rd, Cadoxton be noted.

(2) T H A T the Operational Manager for Property and Principal Lawyer be instructed to seek advice from the Council's Planning department in respect of the proposal and for that advice to be reported to Committee at a future meeting.

Reasons for decisions

(1) Having regard to the contents of the report and discussions at the meeting.

(2) In order that Trustees can be fully informed prior to a decision being made in connection with seeking a Qualified Surveyors report.

823 LAND AT GLEBE FIELDS, SULLY – TOWN AND VILLAGE GREEN
INQUIRY APPLICATION (CX) (EXEMPT INFORMATION – PARAGRAPHS 12
AND 14) –

The Principal Lawyer presented the report which provided Trustees with further detail regarding financial and legal implications which should be taken into consideration prior to making a determination regarding the recommendations contained within the report on this matter under Part I of the agenda.

Having considered the report and advice provided to Trustees in respect of the options available to them in relation to this matter, it was subsequently

RESOLVED - T H A T the content of the Part II report and the advice contained within it be noted in order to make a decision on the recommendations in the Part I Report.

Reason for decision

To ensure that the decision made on the recommendations in the Part I Report are done with the benefit of legal advice contained within the Part II Report