



WELCOMES & UPLANDS ROAD ASSOCIATION

MINUTES OF THE ANNUAL GENERAL MEETING HELD IN KENLEY MEMORIAL HALL ON TUESDAY JUNE 24th June 2014 at 8:00 pm

Chairman's Opening Remarks

The Chairman welcomed the residents present and thanked them for attending. No new members attended.

Apologies for Absence

Apologies were received from Mr and Mrs Rundle, Mr and Mrs Hollis, Mr and Mrs Haar (Committee member), Mr and Mrs Daffin, Mr and Mrs Dixson-Smith, Mr and Mrs Magnus, and Cllr Steve O'Connell who was willing to attend but it was felt there was little to be gained from his presence at this particular meeting

In attendance

Committee: Colin Brown (Chairman), Richard Russell (RR) (Secretary), Peter Davis (PD) Treasurer, Hartmut Klein (HK), Michael Lott (ML) (Uplands Road Representative), Robin McCallum (RM)

Residents: 12 (34 in 2013, 17 in 2012, 10 in 2011) attended representing 9 (27 in 2013 11 in 2012 and 8 in 2011) households of 223 plus 6 committee households. **Quorum: 10 voting members present.**

Minutes of the Last Meeting

The Minutes of the Annual General Meeting held on 10th June 2013 were adopted.
Proposed by Robin McCallum and seconded by Peter Runacres.

Matters Arising

None

Chairman's report

The Chairman outlined the recent history of the litigation against Arnold Tarmac (AT). In an attempt to reach a settlement out of court (part of the pre action protocol required by the Courts) in February 2014 we met at Gullands Offices (AT's solicitors) in Maidstone. The Senior Director of William Graham Law Ltd (WURA's Solicitors), John Graham, represented WURA demonstrating the level of commitment we now enjoy from our solicitors in respect of the claim. Mr Graham had travelled from Cardiff for the meeting. The outcome of the meeting was that AT were not prepared to settle our claim but offered to call a halt to proceedings with each side paying their own costs. This offer was robustly declined.

The Chairman explained that our costs (about £3,500 incurred up to the time of the meeting in Maidstone) are being met by our insurers up to a sum of £100,000.

Our solicitors have now referred the case to Atkins Chambers in London, who specialise in Engineering and Construction claims, and our Counsel, Edmund Neuberger, will present our case to the Court. Mr Neuberger was called to the bar 14 years ago and comes with an excellent record.

In the next few days the claim in the form prescribed by the Court will be served on the other side who will be given a further short window to agree a settlement. Failing any offer to settle from AT, which is rather expected, Atkins Chambers will submit the claim, with supporting documentation, to the Court. From that point in time it is understood it will take a further 6 to 9 months to reach the hearing stage.

Mike Belliere from the floor expressed some surprise that given the current appalling state of the road there was any defence available to AT. The Chairman advised that AT's defence was that drainage was inadequate on Welcomes Road and this was the main reason for failure. Mr Arnold made it clear that he would not return to the site without a drain being installed every 200 square metres along Welcomes Road (this equates to about 40 drain holes) something that clearly we cannot afford to do and anyway has no bearing on the real reason for the failure of AT's work in terms of the expert advice received. Indeed there are stretches of road where the seal and chip remains in place in spite of the heavy rain last winter.

John Carr was glad to note that the offer to allow AT to return to the site had been withdrawn having been given several opportunities by WURA to do so. He wondered if the Secmair seal and chip machine had been used elsewhere since and if so with any success. The Chairman did not know but mentioned that AT could not provide any records of rates of delivery of emulsion nor evidence that the machine had been calibrated correctly.

Adrian Harrington raised the possibility of a pyrrhic victory in that it was unlikely we would ever be compensated whatever the Court's decision because AT would simply go into liquidation and reacquire its machinery through a new company at a discount. It was noted that AT was insured through NFU.

Mike Lott (Committee) mentioned that AT trades on its reputation in the Kent area, Len Arnold Senior having built up the business over the last 35 years from nothing, and that a judgement against AT would not be something he would welcome. Furthermore the son, Len Arnold Junior, who is a quite an impressive young man, would certainly not welcome any action that would damage the Arnolds good name and impair his ability to drive forward the business in the future.

Adrian Harrington asked whether AT had any expert report of their own and he was told by the Chair that it was thought not. We had offered to share the cost of an independent expert to assist in any mediation but this was declined by Len Arnold Snr.

Chairman: Residents will be kept informed of any further developments with the legal action.

Adrian Harrington noted that the kerbing residents in Welcomes Road had installed over the years slowed the absorption of pluvial water which used to be achieved through the previously existing soft verges. He suggested we investigate whether these can be replaced by kerb stones with built in drain holes designed to catch the water running down the road. *(Since discussed with Frank Gaskin at subsequent Committee Meeting when it was decided that the disruption and cost far outweighed any likely benefit- other drainage options are being investigated)*

Chairman: The kerb stone suggestion will be investigated by the Committee with Frank Gaskin (Blocplan) who is attending our Committee Meeting on 30th June 2014 and any suitably qualified engineer.

Proposal to increase rate of road levy by 50%

The Chairman stated that there had been no increase in the road levy in the past 25 years. The UK price inflation calculator shows that the equivalent of £60 in 1980 is £224 at today's prices. The Committee are recommending however that the levy is increased by 50% with effect from 2015/16 meaning a £60 levy will rise to £90. This will give ample time for residents to update their standing orders with the revised amounts.

Whatever the outcome of the AT case the cost of sweeping and maintaining the road in its current state leaves only a very small surplus each year to go towards a sinking fund for any major work including on Uplands Road. The budget projection for 2014/15 shows a prospective deficit depending on what is decided in respect of drainage work.

Mike Belliere favoured an increase to make the road more attractive.

David Jones was also in favour of an increase.

John Phillips (Pine Close) Not in favour until all the arrears of road levy had been collected.

Chairman: Of the 19 outstanding road levies 6 relate to the Guinea (£1.05) p.a owed by Kearnton Close residents. They will be asked to pay £20 per year on a voluntary basis. Morven House will be asked to pay a 'business rate' at a higher level to be agreed with them. Of the remaining 9 names and excluding 2013/14 2 are one year behind, 6 are 2 years behind and 1 is 3 years behind (Cumnor Rise). 53 Welcomes Road owes £180 as this property was repossessed by the Bank and approaches have been made to Andrews Estate Agents but without result. This amount may have to be written off. Since the accounts were struck the arrears have reduced from £1,765 to about £1,000.

Judith Hahn wondered why we could not name and shame offenders but Chair suggested this only tends to harden attitudes and does not usually achieve the result required.

Peter Darnell suggested the use of the Small Claims Court, which has been successfully used before, and that we should proceed to use the SCC again to obtain payment from defaulters.

Chairman: Use of the SCC is not entirely straightforward as although we have won a case before the judge commented that payment towards the cost of maintaining a road by a user was a grey area though it has been established in law that using a facility can often mean that there is an obligation created to pay for it.

There was much general discussion on the topic which can be summed up as follows:-

- we take all those in arrears to the SCC immediately and without further notice
- we make an example of one resident perhaps the one with the highest arrears
- these minutes themselves might motivate payment
- what is the reason for non payment – none ever given
- Chairman has knocked on doors and received both payment in cash in one case and abuse in another
- the poor appearance and condition of the road is adversely affecting property values (professional opinions received supporting this view) and costing residents money so why not pay the levy?
- the poor condition of the road is deterring through traffic and should be left in current state
- a bucolic look to the road would be a nice compromise if it could be achieved – soften verges etc
- being on the Committee is a voluntary job and residents should not make work for Committee members by failing to pay the road levy when due for payment
- a lump sum payment could be considered in future to fund a major resurfacing of Welcomes Road i.e plane off the existing surface, assuming a road engineer considers it safe to do so, and laying stone mastic asphalt of the type now being widely used on other roads in the area by the Council (cost £120,000 to £150,000?) (*At a subsequent Committee Meeting Frank Gaskin, who has dug up the road extensively when repairing it, was of the view that a planing machine would destroy the road as it has no conventional base – a second opinion will be obtained*)
- any such one off levy unlikely to be attractive to Uplands Road residents
- more support for name and shame expressed

It was proposed by *Mike Belliere* and seconded by *Adrian Harrington* that the Committee take residents who have defaulted in paying their road levies to Court as soon as possible.

The proposal was carried unanimously.

Chairman: Drew attention to the fact that Simone Drive (6 houses) are using Welcomes Road without contributing to its upkeep. It appears that the Committee of the day wanted a full road levy when they had been offered 50% but a further examination of the records is needed to establish the facts which the **Chairman undertook to carry out**. *Peter Runacres* from his time on the Committee recalled that WURA lost a court case against a Simone resident when attempting to enforce payment but there was no recollection of the offer to pay 50%. It seems that there is nothing to lose from making a fresh approach to Simone residents to join the

Association for a reduced level of road levy per house and enjoy all the benefits of such membership including helping to enhance the value of their property by improving Welcomes Road.

There followed some (slightly tongue in cheek) comments on the possibility of blocking off the side roads including Zig Zag Road (ZZ), whose residents do not contribute to the maintenance of Welcomes Road. The Secretary, who is a Zig Zag Road resident, assumed that this is on the basis that ZZ is available for use by WURA members to access Abbotts Lane unlike other side roads which are dead ends. ZZ is also extensively used by trade vans and lorries to cut through to Welcomes Road and thus service the needs of WURA residents. This is a result of ZZ featuring on all Satnav systems whilst on some systems Welcomes Road is absent from the software.

ZZ is not kept in better condition because the residents at the top cannot agree with the bottom ten houses on what to do with the road. Some like it in bad condition to deter traffic though this is not really fair on WURA residents who might want to cut along it. Ideally in the long term ZZ residents should join WURA but clearly not unless and until ZZ road is radically improved. This would raise the prospect of Leacroft Close (a dead end road joining ZZ) residents being asked to pay a road levy to WURA.

The gate leading to St Winifreds was discussed in this context and it was explained that this is locked as the Housing Association does not want to pay a road levy to WURA. It is expected that it will remain locked though there is pedestrian access around the end of the gate.

Mike Belliere suggested it was time to take a vote on the proposal from the Committee to raise the rate of road levy by 50% with effect from 2015. The increase was accordingly proposed by Robin McCallum (for the Committee) and seconded by Adrian Harrington.

The proposal was carried unanimously.

The Treasurer and Secretary will take the necessary steps to inform residents of the rates which will apply from 2015 and invoices for current levies will be issued shortly after the meeting for the 2014/15 year.

For record purposes the current road levy with the new rates for (2015) are as follows:

Band D £36 (£54)
Band E £44 (£66)
Band F £52 (£78)
Band G £60 (£90)
Band H £72 (£108)

This will raise total potential annual income (ignoring Kearton Close) from £11,460 to £17,190.

There was general discussion about the rate of road levy increases in future years bearing in mind the need to build up sufficient reserves to pay for the best possible solution for Welcomes Road and the need to maintain Uplands Road properly. Because the road levy has not changed for many years, the possible further erosion of capital due to AT's defective work and the fact that interest earnings on reserves are now negligible, **regular reviews of the rate of road levy tied the rising cost of bitumen will be necessary in coming years.**

Uplands Road Representative report (Mike Lott): Nothing in particular to report beyond the need to press for compensation from Morven Health Care Ltd for the nuisance and wear and tear to Uplands Road caused over the past almost 3 years whilst the builders have been on site (due to leave July 2014). Apart from possible financial compensation there is a written agreement in place stipulating that all the verges and other damage to Uplands Road including the pillar box site should be restored to their original condition.

Treasurers Report (Pete Davis) : The accounts and budget speak for themselves. Audit continues to be carried out by Gary Lowe who does not charge for the work but is supplied with about £80 worth of red wine as compensation. **The Chairman sought and received unanimous approval to incur this expenditure.**

Secretary's report (Richard Russell): Much time was spent on providing exhaustive records for evidential purposes to the solicitors in connection with the AT case and handling increasing levels of email contact with the residents (both ways). In addition a lot of time was spent checking the accuracy of the content of the letters drafted by our solicitors before sending to the other side.

The web site is not the repository of records it used to be due to the ongoing law suit and material is sent by group email to residents instead. Seventeen other members requested hard copy of all circulated material and this is delivered by hand to their houses.

An analysis of the contacts for which we hold email addresses, and allowing for the members getting hard copy, shows that about 40 members are not receiving any information from the Committee. A further attempt will be made to obtain their email addresses when we send out all the levy invoices we deliver by hand.

42 Welcomes Road. The Secretary has reported the overgrown condition of this plot to the appropriate department at the Council and it is hoped something can be done to persuade the owner to tidy the frontage at least.

Chairman: The City of London Corporation who have a frontage of woodland along Welcomes Road will be asked to pay a road levy.

Hartmut Klein (Committee member) mentioned his contacts during the year with CoLC officials who first of all appeared willing to install a soakaway to reduce the flow of water down Royal Lane (Avenue) but when the official concerned was transferred elsewhere his successor obtained legal advice such that a precedent should not be created by spending money on flood management in the area.

Election of Committee: All current Committee Members offered themselves for re-election apart from Hartmut Klein who has tendered his resignation due to other commitments. The remaining members were proposed for re-election by Peter Darnell and seconded by Adrian Harrington. The proposal was carried unanimously.

The Chairman mentioned the need for a replacement for Mr Klein as new blood is needed on the Committee.

There was a vote of thanks to Hartmut for his valued input during his time on the Committee.

The Chairman stated that the law suit against AT could not have been pursued but for the incalculable hours spent by the Secretary compiling dossiers and corresponding both with AT and our solicitors and in recognition of his work the Chairman proposed an ex gratia payment equivalent to one year's honorarium with a vote of thanks from both the Committee and the residents – This proposal was carried unanimously.

The Secretary's initial reaction was to suggest payment be postponed until settlement of the Court case but was otherwise persuaded by Mike Lott and the Chairman who also mentioned the considerable disruption to the Secretary's private life!

Any other business.

Judith Hahn asked about the situation with plots 7 and 9 Welcomes Road and was advised that whilst there is little room for parking any prospective owners will be required to put their vehicles in an open car port which must not be converted into a lockable storage room. Barnfield Homes have sought to revise the plan for the one house previously approved to two small dwellings (not as advised at the meeting to Judith as one only). There are about 30 objections. (*Subsequent to meeting learned that this application has been refused mainly on the grounds that the trees will have to be cut back to make room for the houses proposed*)

John Phillips mentioned that more bathroom material has been dumped in the woodland along Welcomes Road. This is not on Ray Pearson's land and the owners (a London property company) would like to sell as they acquired the land only as a favour to a client who could not find the finance to complete the purchase. Arrangements will be made to clear it.

The person who reported the original fly tipping in this location did not follow through with the Council as far as is known with details of the white van they saw off loading the rubbish.

The fallen pine tree is also on the land owned by the property company.

Peter Emmens has recently strimmed off the bank along the frontage of the wood at WURA expense. On a general note it was observed that the chestnut trees along Welcomes Road are diseased, over 100 years old and will need replacing at some point. In addition it was observed that a number of residents fail to maintain their frontages properly thus depressing property values generally.

The meeting closed at 9.30 pm with thanks from the Chairman to the residents who attended the meeting and for their valued input.

Peter Runacres from the floor proposed a vote of thanks to the Committee for their work during the year