

# OXBOROUGH PARISH COUNCIL

2021/4  
**MINUTES**

## **EXTRAORDINARY MEETING -via ZOOM**

Tuesday 30 March 2021, starting at 7.30pm

<b>PRESENT:</b>	Simon Willies	Chair
	Linda Buckingham	Vice-Chair
	Bernie Chapman	Co-opted Councillor
	Graham Allison	Co-opted Councillor
	Mike Nairn	Breckland Council Councillor

15 Members of the Public

Before the meeting began, the Chair issued the usual reminder for everyone to keep comments civil and relevant, and for public attendees to mute themselves until the allotted time for participation. If there were any interruptions, he would ask the Clerk to remove them from the meeting.

### **Open Forum (questions regarding the Agenda)**

Mr. Paul Gilluley queried why the matter was still being discussed, after the solicitor for OFL had already said that the consent should be given. The Chair said that there had been an extra condition added by OFL solicitor, concerning the fencing as this was being included in the play equipment schedule (where it is listed).

#### **1. APOLOGIES FOR ABSENCE**

Cllr Monson had offered his apologies, citing a non-financial interest.

#### **2. DECLARATION OF INTEREST AND ANY REQUESTS FOR DISPENSATION**

None

#### **3. DECLARATIONS OF RECORDING AND SOCIAL MEDIA USE**

Parish Clerk will be recording the meeting via zoom application. The Chair reminded the public and press to mute themselves.

#### **4. MOTION: TO DISCUSS AND AGREE ON THE LEGAL BASIS FOR THE REQUEST FROM OFL FOR FENCING OF 1.2 METRES HEIGHT BE INSTALLED ON ALL FOUR SIDES OF THE PLAYGROUND PRIOR TO OPENING TO THE PUBLIC**

The Chair had prepared a statement:

Oxborough Farms Ltd (OFL) have revised the play area consent letter to include a paragraph that makes it a requirement for fencing of at least 1.2m high to be erected on all four sides of the play area prior to it being opened to the public, stating it is a legal requirement. This could be seen as an extra condition being placed on OPC to adhere to if we sign the consent letter. As a PC we need to consider what impact this has on the play area project proceeding. Some points to consider:

a) It would appear following some research it would appear there is no legal requirement covering play area fencing and the need to erect it although there are certain standards it is advised should be observed to ensure the users safety. The Royal Society for the Prevention of Accidents (ROSPA) guidelines refer to the standards BSEN 1176 (Play equipment) and BS1722 (Fencing) as setting the benchmark. BSEN1176 deals with playground equipment and fencing to ensure it is safe for use. It recommends fencing to be a minimum height of 1m, any posts to be capped, gaps not to exceed 89mm, and gates must be self-closing and open outwards where practical. BS1722 on fencing and states that fencing must be bow topped and of a suitable safe material, long lasting, robust and able to withstand all types of weather, openings should be self-closing and outward facing where practical. These standards aim to ensure that users of the play area are kept safe, dogs are kept out of the play area and the play area can be identified as their own.

b) Budget constraints on the PC. This has already been referred to in previous meetings identifying about £1,300 that could be used for fencing. Quotes for suitable metal fencing came in around £6,000. Even with the VAT refund from the play equipment the PC would need to raise further funds to install the fencing which would take time. However, the Parish Clerk, Susan Hernandez, informed me this morning that an anonymous donor has come forward with a donation of up to £5,000 for the fencing.

My main concerns are:

a) It would appear the OFL consent letter was incorrect by stating it was a legal requirement for fencing of a height of at least 1.2m to be erected; b) The imposition of an extra condition so late in the day which it would appear to be further delaying tactics and possibly acting unreasonably and c) It would appear OFL are not prepared to be flexible in

their approach and not considered/accepted any PC suggestions on the fencing. The PC accept there is a need for fencing but when it is affordable. At this point it is worth noting that the PC has been granted an extension to its funding window until September 2021 which is good news.

- a) We agree to sign the OFL letter as it stands, accepting the supposed inaccuracies. This would allow the project to go ahead sooner rather than later and curtail any further legal costs.
- b) Agree the fencing is a requirement but again go back to OFL asking them to reconsider their condition on fencing and reword that refers to “meeting ROSPA guidelines ensuring the users safety”. This means a further delay on the project and the PC would incur further legal costs.

Cllr Chapman did not want to postpone it anymore, especially as there is the offer from the anonymous doner. However, he added that the information regarding the fencing should be followed, that is it should be no less than 1m (as per ROSPA guidelines). The Chair responded that as OFL had stated 1.2m, then the minimum requirement would be met. Cllr Allison, speaking from memory, said that about a year ago the PC agreed to erect a fence, but no height was discussed, and at no particular time when it should be installed, only that any monies remaining plus the VAT refund could be used for this purpose. He has looked around several other greens and has not found any fencing at 1.2m (4 foot), rather 3 foot or 3 ½ foot. So go along with the fencing at 1m, as 1.2m will take it above the existing metal railings, which he thinks would be an eyesore. He would prefer 3 foot but would settle at 1m adding that the purpose of the fencing in the first place was to keep dogs out. The Chair said the fencing was also to ensure the safety of the playground users, but Cllr Allison said that the gate would be easy to push open, so you cannot say that a higher fence keeps children safe as they can just walk out through the gate. The Chair pointed out that it would be a self-closing gate. Since OFL has included the requirement of a 1.2m fence in the consent letter, if the PC prefer to proceed without more delay then this condition must be met. Cllr Buckingham asked what the extra cost would be to go with the 1.2m height, adding that she thought it was a good idea for the PC to consider the fencing. As well as the health and safety (h&s) aspect there is the risk assessment; the management of h&s at work regulations of 1999 have to make sure that the risk level is in the green and low - and this fencing would meet that (1.2m would be preferable), so the consent letter could be signed and the project moved on. The Chair advised that Judith Taylor, Gooderstone clerk, had confirmed that the new Goodersone play area fencing and gate are both 1m high. Cllr Buckingham said to go with the 1.2m, as it would incur more solicitor's cost and more time to change to 1m. Cllr Chapman agreed that it would incur more legal costs, but he still questioned where the solicitor found the legal requirement for the playground fencing. However if everyone is in agreement with proceeding with 1.2m, then best to get on with it as it could drag on; the children have had a year of lockdown and it would be good for the village to get it done with now. The clerk advised that both Bonnets and NGF quote detailed a height of 1m. Cllr Allison said the PC should state that 1m high fencing will be installed, and just get on with it, as there is no time stipulation on adding the fence. But the Chair said that the playground cannot be used without the fencing being installed, recalling that the original quote had included the fencing, but this had been removed because of limited funds. Cllr Allison insisted that the law says the fencing is not legally required. He said that the former Chairman had said that although the fencing component had been removed from the quote, due to lack of funds, that once the VAT refund was received the fencing could be bought; there would be a gap between the play equipment and then fencing being installed. But Cllr Willies reiterated the point that according to the consent letter the play equipment could not be open for use until the fencing was erected - this is the sticking point as if this happens this would be seen as breaking the consent letter. The PC must be careful and make an undertaking that the fencing is installed at the same time as the equipment. Cllr Allison said he has made his case, and asked if there is a guarantee that if the PC agree to the consent letter that there will be no further changes. The Chair read out the consent letter:

Our Client: Oxborough Farms Limited (“Company”)  
Your Client: Oxborough Parish Council  
Property: Oxborough Village Green  
Consent to erect playground equipment.

Further to previous correspondence between us and our respective clients in respect to the above, please accept this letter as consent of the Company to allow the play equipment to be constructed on the following terms:

1. The play equipment will consist of that equipment listed on the attached schedule, to include the fencing and access gates.
2. The play equipment will be constructed at the location shown on the attached plan, which for the avoidance of doubt is within the ‘Path Glade Area’.
3. This consent is for a period of seven years only (starting on the date of this letter) and after the expiry of seven years the Parish Council agree to request consent from the Company to allow the play equipment to remain in place, such consent to be given on the same terms as in paragraph 4.1 of section 12 of the transfer dated 9 November 2005 made

between (1) Oxborough Farms Limited; and (2) Oxborough Parish Council with both parties ensuring the integrity and spirit of the Doorstep Green initiative continues.

Please acknowledge your agreement by arranging for the signing and return to me of the duplicate letter.

Our client should just like to point out that when the play equipment is erected it is its understanding that the fencing (1.2 metres height) included in the play equipment schedule must be installed on all four sides of the playground prior to the opening to the public, in order to comply with legal requirements.

The Chair suggested that the PC agree to install the fencing, but that as no particular height was specified on the schedule so the PC would meet the ROSPA guidelines which specify 1m. Cllr Allison asked if the playground contractor would be installing the fencing - the Chair confirmed that a quote had been received for NGF. But Cllr Allison added that if not then we would have to rely on the fencing contractor to erect the fencing without delay in order to comply with the consent letter, otherwise how would the area be policed. Cllr Chapman stated that the contractor must erect a safety fencing whilst the playground is being installed but then if the contractor would be removing this at the end of the job, that Cllr Chapman would offer the use of his own heras fencing as temporary fencing. The Bonnet's quote exceeded £6500 (without installation cost) whereas the NGF quote was just over £5000 (including installation cost) - and to increase the height from 1m to 1.2m (4 foot) would only cost a further £325. Cllr Chapman commented that as the existing village green fencing is up to 3 ½ foot, as long as it (playground fencing) looks right it should be fine. The Chair said that it was time to make a decision now and to move forward. Then Cllr Allison asked why the fencing should not be made of wood, as he had seen about 7 play areas with wooden railings. - the Chair said that this fencing must be smooth (no danger of splinters) although of course metal railings would cost more; there is a choice between metal railings, plastic or recycled material. Cllr Allison asked what material had been used for the new Gooderstone playground. Cllr Buckingham added that the Swaffham play area has a metal railing. And then Judith Taylor confirmed that Gooderstone had selected metal railings. The Chair asked the Councillors to consider the next step. Whether to accept the consent letter and incur the extra cost of £325 for the higher fencing (1,2m), or whether to be prepared to accept that fencing is required but to ROSPA standards (1m). Cllr Allison wanted to go for 1m. Cllr Buckingham said that in light of the extra solicitor costs for writing further letters, she would rather go with the consent letter. Cllr Chapman agreed although he would have preferred to stick to ROSPA - but to avoid even further legal costs it would be cheaper to go for 1.2m. The Chair said that the OFL consent letter details incorrect information on the legality of the fencing, but there is a wonderful window of opportunity to move ahead and get things going so he is prepared to go with the 1.2m, sign the consent letter. 3 in favour, one against. Still make it clear to OFL that it is not a legal requirement for 1.2m and that ROSPA requirement has a standard of 1m, but not to incur any further legal costs. The Chair asked the Clerk to relay this information to the PC solicitor and request the consent letters to be sent for signing. The Clerk advised that the OFL solicitor had advised this was already in the post to be received by OPC imminently. Cllr Allison asked the Clerk to check the cross-rail gaps - but this information is not on the quote paperwork. The Chair advised the gap is 89mm, ROSPA standard. Cllr Allison commented that this might not prevent dogs getting through. Once the letter is received, the Chair would be signing and then a second Councillor would be signing.

#### Public participation

Mr. Gilluley asked that now that the consent letter has been received, will the PC be asking for Cllr Monson to resign. The Chair advised him that this is another matter and would be discussed at another meeting.

The Chair thanked everyone for their contributions.  
The meeting closed at 8.09 pm