

Key Area 1 Brief History of the issue with the residents of The Firs, Strensall.

The building of the structure to provide a second access to The Firs, Lords Moor Lane, Strensall was reported by a resident to the Parish Council in December 2007 and the then chairman of the Parish Council (Mr Peter Jesse) visited Mr and Mrs Harrison and was advised that they had received permission from City of York Council to construct the second access to their property. This structure crosses land owned by City of York Council and was leased to Strensall and Towthorpe Parish Council at the time of boundary changes in January 1996. Land Registry document NYK 174360.

After referring the issue to City of York Council, as landowners, there was a period when there was no activity to resolve the impasse. An enforcement officer from City of York Council viewed the site and on 3rd March 2008 considered that the structure was "permitted development and therefore did not require planning permission". However, he must have had some concerns as the case was passed to Brian Gray in City of York Council's Legal Services Department.

The stance taken by Strensall with Towthorpe Parish Council is supported by a mandate from residents to protect areas of green belt. The leased land in question provides a barrier between the highway and green belt land and the Parish Council were concerned that allowing construction of the new structure to be unchallenged would create a precedent for crossing this leased land.

City of York Council's Highways Department had been contracted by Mr and Mrs Harrison to provide a dropped kerb on Lords Moor Lane in line with the new access. This work commenced on 28th February 2008 and following a request for the work to be halted by the Parish Council a telephone call was received from Stuart Partington in which he stated "the work so far had been authorised by his department" but with a caveat that "other permissions were required for any construction beyond the footpath".

A second visit by the Parish Council Chairman to Mr and Mrs Harrison was met by an aggressive response and a request that any further contact required by the Parish Council should be in writing.

It was evident that Mr and Mrs Harrison refused to accept that they needed further permissions but at that time were advised by Mr Jesse that the Parish Council were in contact with City of York Council as landowners to give guidance to resolve the situation.

Due to the lack of any response from Officers at City of York Council a letter was sent to the CEO on 18th March 2008. It took until 17th May 2008 before a written response was received from the Highways Department but no clarification was received from the Legal Department.

At the 8th July 2008 meeting of the Parish Council it was agreed that advice be obtained from a solicitor and following a meeting on 7th August 2008 it was arranged for a solicitor's letter to be sent to both the residents at The Firs and to City of York Council as the landowner. Previous letters from the Parish Council to the Harrisons had not received any replies. On 13th August 2008 a response from the Property Services Department at City of York Council was received requesting sight of documents as they now agreed that consultation with the Parish Council, as leaseholders, should have taken place.

In late 2008 due to further inaction by City of York Council Departments and lack of response from the Harrisons a further letter from the solicitor acting for the Parish Council was sent to the Harrisons requesting sight of the evidence they say proved that City of York Council had given permission for the erection of the structure and included a deadline of 8th January 2009. Documents received on 8th January and included the letter from Stuart Partington referred to above which clearly stated that "other permissions may be required."

At this time the actions of the Parish Council were supported by Ward Councillor S. Wiseman who facilitated a meeting between the various departments of City of York Council, the Parish Council and their legal advisor. This meeting took place on 5th February 2009 and when representatives were shown the letters from Property Services and Highways supporting the stance taken by the Parish Council it was agreed that a solution would be provided by mid-March and the Parish Council's legal advisor was instructed to write to City of York Council as agreed at the meeting. Mid-March passed without any resolution. In August 2009 a change of personnel at the solicitor's dealing with the case suggested that a barrister be engaged which was agreed by the Parish Council as all other efforts so far had failed. The Barrister concluded that the actions of the Harrison's were trespass and that the structure should be removed but he could not guarantee any judgement made in the High Court.

In late 2009 further attempt was made to hold a joint meeting between the Harrisons, their legal representatives and the Parish Council and their legal representatives but although agreement was reached for a meeting to take place no dates were suitable to Mr and Mrs Harrison. No progress was made for any date which was acceptable to the Harrisons throughout 2009 or 2010. In August 2011 the solicitors acting for the Harrisons communicated with the Parish Council's solicitor stating that *"our clients have instructed us that they will make themselves available to accommodate your client's availability date."* A meeting was agreed to take place on 31st October 2011 but cancelled by the Harrisons on 28th October. A second date of 11th November 2011 was suggested by the Parish Council but not accepted as a neutral venue was not available. Finally, a meeting between Parish Councillors and Mrs and Mrs Harrison was agreed to take place on 14th November 2011. At this meeting Mr and Mrs Harrison were present together with Parish Councillors Jesse (Chairman), Chambers and Marquis. Notes were taken by Mrs Susan Nunn, Parish Council Clerk, and were later circulated and agreed as a true record.

On 8th December 2011 an email was sent by City of York Council's Legal Department to the Parish Council confirming that no permission had been given to the Harrisons to cross the leased land.

In view of the statement made by Mr and Mrs Harrison at the 14th November meeting, that there was no intention to use the new access to develop the land behind the dwelling and the only reason for the building of the structure was to make maneuvering of their caravan easier. The notes were agreed by both parties apart from the reference to caravan should have been motorhome. The Parish Council agreed on 13th December 2011 that a Deed of Grant be drawn up to legalise the structure. City of York Council's Legal Department agreed to draw up the Deed of Grant.

First draft of Deed of Grant received from City of York Council by the Parish Council on 12th July 2012 but an accurate document was not produced until 28th August 2013 and was signed by all parties. This Deed of Grant was for pedestrian and vehicular access only.

The land behind the entrance gates was laid to lawn which appeared to make the reason for building the structure void.

In December 2013 an outline planning application was lodged with City of York Council to erect a dwelling on land behind The Firs. The application was approved on 8th April 2014.

A further full application was submitted by Marsden Homes to a different design in March 2015.

On 8th May 2015 a request was received from Hague and Dixon to allow a Deed of Easement for utilities to cross the leased land to the proposed new dwelling.

The Parish Council concluded at the meeting held on 9th June 2015 that of the statements made at the 14th November 2011 meeting by the Harrisons appeared to be a ploy to regularise the access to

allow a separate access to the land to the rear of The Firs and declined to give consent. On 26th June 2015 City of York Council's Legal Department confirmed their support for this decision.

On 28th July 2015 at a Planning Sub Committee meeting of the Parish Council the developer, K D Marsden attended and stated that he had also been deceived by the owners of The Firs and that it had cost him a lot of money.

The decision reached by the Parish Council at the monthly meeting of the Parish Council held on 11th August 2015 and the content of a letter to the solicitor representing the developer was agreed by Councillors present.

On 29th October 2015 a telephone call from Duncan Beckwith to the Parish Clerk requested information concerning the supply of electricity to the proposed new dwelling. He indicated that he had been made aware of a problem with access and wondered if the issue could be resolved by routing an upgraded supply to both properties through the existing supply. He asked if this solution would be acceptable to the Parish Council. He was advised that this would be a matter for the Parish Council to decide. Mr Beckwith decided that he would approach his superiors about the issue.

The Parish Council indicated that upgrading an existing supply would be acceptable if such a request was received.

On Wednesday 6th July 2016 a call received from Robert Hebcott of Northern Powergrid who stated that Duncan Beckwith had retired and he was sorting out unfinished items. He was made aware of the conversation between Duncan Beckwith and the Parish Clerk and indicated that he would probably make a site visit on Wednesday 8th July and would follow up with a request to the Parish Council to upgrade the existing supply.

Strensall with Towthorpe Parish Council disagree with the comments made by the Investigating Officer as they are incomplete and appear to be biased to the allegations made by the complainants without any investigation into the roles of both City of York Council and Strensall with Towthorpe Parish Council to deal with this long running issue.

Key Area 2 Failure to declare interest

Strensall with Towthorpe Parish Council disagree with the Investigating Officer's conclusions in respect of Councillor Plant's failure to declare an interest in the item under discussion on 11th August 2015. As Chairman of Strensall and Towthorpe Parish Council at the time of the boundary changes Councillor Plant was a joint signatory to several leases drawn up by Ryedale District Council which included the lease in question – how does this signing action not allow him to carry out his duties as a Parish Councillor.

Councillor Plant is a long standing member of the Parish Council and his knowledge and opinions are a valuable asset. When the dispute with Mr and Mrs Harrison began in 2007 Councillor Plant declared an interest purely on the grounds that he lived close to them. On the occasion of 11th August 2015 when Councillor Plant failed to declare an interest he took no part in the proceedings and although the minute registers a unanimous vote this should have indicated that he was not involved in the debate.

Key Area 3 Failure to implement the complaints procedure.

Strensall with Towthorpe Parish Council disagree with this aspect of the complaint.

In this long process each communication from Mr and Mrs Harrison has been discussed by the Parish Council and a suitable response made.

Key Area 4 Provision of utilities at Sevenoaks.

Strensall with Towthorpe Parish Council disagree with the findings of the Investigating Officer who states that “City of York Council, as landowners, have considered the Sevenoaks request and have informed Transcore that the services at Sevenoaks must be relocated and the land reinstated.” Communications, both written and verbal, between the Parish Council and the developer at Sevenoaks clearly show that there was no request from any source to apply for a Deed of Easement to vary the existing supplies to the original property at Sevenoaks. The gas supply was upgraded and at the insistence of the Parish Council, following discussions with City of York Council’s Property Services, the new water supply to two of the properties was relocated to avoid crossing the leased land.

In respect of the claim that a similar situation at Sevenoaks on Ox Carr Lane, Strensall was dealt with in a different manner this is disputed by the Parish Council.

No applications were received by the Parish Council for any alteration to provide additional services to the three new properties built on the site of the single property known as Sevenoaks. The Parish Council were aware that an upgraded gas supply to the three properties under construction had replaced the existing which had been confirmed on a visit to the development site. On 25th September 2015 a site visit by members of the Parish Council found that Morrisons (Contractor to Yorkshire Water) were providing a new water supply to two of the three new properties. The contractors were requested to stop work and a conversation with the site foreman suggested an alternate route which avoided crossing the leased land. After the Councillors left, the work was completed as they believed that permission had been granted by City of York Council to provide this new supply across the highway and footpath. This meant crossing the same leased land as involved with The Firs. Several conversations and communications took place between the Parish Council, City of York Council, The Developer (Transcore) and Yorkshire Water which resulted in the diversion of the supply to avoid crossing the leased land.

Transcore also requested permission to purchase a small amount of the leased land to widen the access to the development site. This was agreed in principle but was referred to City of York Council as landowner for their approval or otherwise. A retrospective planning application was submitted to City of York Council which included the access in March 2016 and was eventually approved by them.

Key Area 5 Alleged biased conduct of Strensall with Towthorpe Parish Council

Strensall with Towthorpe disagree with the alleged maladministration, prejudice and bias of Councillor Marquis, in particular in relation to the letter of 9th September 2015. The decisions taken by Parish Councillors are always based on the standards itemised in the Code of Conduct – objectivity, openness and honesty.

The letter of 9th September 2015 to Mr and Mrs Harrison in response to several communications explains the Parish Council’s actions and is based on facts.

Key Area 6 Alleged failure to adhere to Complaints Procedure/Code of Practice

The Investigating Officer states her “report will not contain any findings in respect of the elements of Mr and Mrs Harrison’s complaint numbered 3 and 6 above.” yet her report quotes “Relevant Provisions of the Code of Conduct” to highlight these elements.

Each communication received from Mr and Mrs Harrison was discussed by members of the Parish Council and responses were provided.

Addendum

In addition to the items identified above other allegations of misconduct included:

Access to Heathfield, Lords Moor Lane, Strensall

A request received from the new owner of Heathfield, a property close to The Firs, to maintain the access to his property with blocks rather than the existing asphalt which was in need of repair. The property deeds show that the owner of Heathfield has a responsibility to maintain the access in good condition and the Parish Council decided at the 13th October 2015 meeting to approve the request.

Erection of structure at the entrance to Dennington Barton on Lords Moor Lane.

The Parish Council were accused that they had allowed the building of a structure at the entrance to the property known as Dennington Barton. It was pointed out to Mr and Mrs Harrison that City of York Council had identified an error with the Land Registry document for the leased land and supplied documents showing that Dennington Barton was no longer included in the area of land covered by the lease. The work carried out had been the subject of a planning application which had been approved by City of York Council.

On 28th July 2016 the Parish Council were made aware by City of York Council's Legal Department that correspondence had been received from Mr and Mrs Harrison by City of York Council's Property Services complaining about the actions of the Parish Council at the properties of Heathfield, Lords Moor Lane, Strensall and Sevenoaks, Ox Carr Lane, Strensall. The proposed reply confirmed that the actions taken by the Parish Council were correct and in accord with the lease.

City of York Council's Emerging Local Plan

In the 2014 Publication Draft of the City of York Local Plan the land between Flaxton Road and the York/Scarborough railway was included as "Land safeguarded for development". This area of land can only be accessed over the leased land in question.

Whilst the current version of the Local Plan is under a period of consultation until 12th September 2016 and within the plan is the removal of Safeguarded Land the Parish Council believe that until such time that the Local Plan is agreed by the Planning Inspectorate that this area of land is still under threat.