

Raglan Community Council
Minutes of the Ordinary Meeting held on Wednesday
28 April 2021, this meeting was conducted electronically
at 7.00pm

Present

Cllr Charlotte Exton	Cllr Helen Tilley
Cllr Richard Moorby (Chairman)	Cllr Brian Willott
Cllr Penny Jones	Cllr Hazel Leacock
Cllr Lynne Eilertsen	Cllr Dave Bevan

4905 In attendance:

Adrian Edwards, Clerk to the Council

4906 Agenda item 1:- Apologies for absence

Cllr Adrian Merrett due to illness, Cllr Sylvia Price due to IT issues

4907 Agenda item 2:- Declarations of interest.

No declarations of interest were submitted, but members will make a declaration when and identified under the relevant minute.

4908 Agenda item 3:- To receive and adopt the minutes from the Ordinary meeting, held on 31 March 2021
The chairman asked if the minutes were acceptable to those in attendance. Cllr Willott asked for the name on page 1 to be correct from Helen to Brian, the Clerk apologised for the mistake. After some discussion it was:

Proposed: by Cllr Willott seconded by Cllr Jones that the minutes are accepted with the minor amendment.

All those present agreed

4909 Agenda item 4:- Matters to report.

The Clerk reported that the Community Council received a report from the tree conservation officer that was discussed under minute number 4903. It was explained that the tree is Monmouthshire County Council Highways or SWTRA's responsibility. The Clerk had contacted the relevant officers, but the Community Council had not received a reply before the meeting. A discussion took place with a range of views being expressed by members. After some debate it was:

Proposed: By Cllr Leacock seconded by Cllr Bevan, the Community Council contacts the relevant depts.

All those present agreed

Cllr Tilley asked about the funding for community fitness equipment identified in the finance report. The Clerk explained that he had returned some information to Cllr's Tilley and Moorby. Cllr Tilley asked what the best way was to move this forward for the Llandenny community. The Clerk explained the Community Council could work in partnership with a group or the Llandenny Village Hall committee to look at the way forward to provide the relevant equipment. A discussion took place with a range of views being expressed by members. After some debate it was:

Proposed: By Cllr Willott seconded by Cllr Jones, the Community Council works with the relevant group
All those present agreed

The Clerk informed members that Monmouthshire County Council has informed the Community Council that the wicket gate to Sunnyvale and Usk Road, is not Monmouthshire County Council Highways responsibility. A discussion took place with a range of views being expressed by members. After some debate it was:

Proposed: By Cllr Leacock seconded by Cllr Jones, the Community Council replaces the gate on safety grounds.
All those present agreed.

The Clerk informed members the Community Council has not received a reply from Monmouthshire County Council Highways regarding the speed limit in Raglan Village. The chairman gave those present some background on the current standing. Cllr Jones also gave some information relating to the current issues. A discussion took place with a range of views being expressed by members relating to the current speed restrictions. After some debate it was:

Proposed: By Cllr Bevan seconded by Cllr Jones, the Community Council contacts officers from Monmouthshire County Council Highways and seek further information.
All those present agreed.

4910 **Agenda item 5:-** Reports from the County Councillor to consider road safety on Chepstow Road, in Treworgan.

Cllr Jones informed members that she had received a complaint from a local farmer about the speed of the traffic on Chepstow Road, at Treworgan. It was explained that the Highways Dept had been in contact with the farmer and some investigation works are going to be undertaken regarding the speed of the traffic at this location.

There was some discussion over installing some signs relating to no parking on a parcel of land close to the above location. It was explained that cars and larger vehicles are using the area to turn or park during the day. After some discussion it was agreed the Clerk should arrange for signs to be installed. After some debate it was:

Proposed: By Cllr Jones, seconded by Cllr Tilley the Community Council Clerk obtains the relevant signs.

All those present agreed.

4911 Agenda item 6:- Consider a number of reports from the Clerk

Reports to: - Raglan Community Council

Subject: - Treworgan Common

Report: - by the Clerk

Date: - April 2021

This report is to give members of the Community Council an update on the issues on the above common land. Members will be aware of the concerns local residents have expressed.

This first come to light following the publication of one of Monmouthshire County Councils enforcement advice notes. Since then, the Community Council and Cllr Penny Jones have received a number of emails from a resident asking what action is going to be taken to reinstate the common area and remove the earth bund/embankments that have been put in place.

Cllr Jones invited the County Council Solicitor to look at the legal points in this matter and a member of the legal team at Monmouthshire County Council has given his opinion.

The legal team discussed this matter with colleagues in the Planning Dept, and officers from Land Charges section. Officers have concluded, as Monmouthshire County Council does not own the land, there is nothing which the legal department can do to remove the said bund/embankments.

Some of the residents of the community have the benefit of commoners' rights and it is their rights which have been infringed and not Monmouthshire County Council's. As such Monmouthshire County Council has no standing to bring a claim.

It was explained that officers from the Planning Dept have carried out an inspection in order to determine whether the bund/embankments would have required Planning permission. The inspection determined that it is too small to have required Planning permission and while the investigation is still open, it was determined that enforcement for not obtaining Planning permission could not be pursued and this is why it was referred to Monmouthshire County Council Legal Dept.

Summary:

Monmouthshire County Council cannot identify any powers which Monmouthshire County Council has to rectify this breach.

Monmouthshire County Council offered some advice in order to assist the Community Council and residents. The formation of the bund/embankments would have required permission from the Secretary of State under S38 of the Commons Act 2006. Monmouthshire County Council assumed that this consent has not been obtained as affected parties would have been notified, i.e. the Community Council along with Commoners and notice would have been published.

Section 41 of the Commons Act 2006 states that where any works are carried out which did not have permission from the Secretary of State as required in Section 38 of the Act, then any person may apply to the County Court requesting an order that the land be restored to its original condition.

The following section states:

Section 38 of the Commons Act 2006 ("the Act") provides that 'restricted works' on registered common land (or certain other land under section 38(5)) in Wales require the consent of the Welsh Ministers if they prevent or impede access to the land, or involve the resurfacing of a 'hard' surface (such as concrete or tarmac)..

This power came into effect under Section 41 and was brought into force in Wales on 1 April 2012 and, any person can take action under it against any restricted works that have been constructed, without consent, since that date.

Restricted works are works which have the effect of preventing or impeding access to, or over, the common land. They might include fencing, buildings and other structures, ditches, trenches, and embankments.

What can be done if someone thinks that works have been constructed unlawfully?

Thorough background research is an essential first step if a person is to be clear about the facts and maximise the possibility of developing a good, substantive case. It is important to bear in mind that the works may have been constructed without consent for a variety of reasons. These could include that the person constructing them:

- ❖ considered the legislation but did not think they needed consent;
- ❖ did not know about the requirement for section 38 consent on common land;
- ❖ did know about the requirement but deliberately chose to ignore it; or
- ❖ considered the works to be so urgent as to justify going ahead with them before obtaining consent.

Members must be mindful, legal action can be costly. If members are considering action for the removal of any works that they consider to be unlawful, this could initially be sought through negotiation and dialogue first before acting through legal avenues or courts.

Sections 38 & 41:

Where restricted works interfere with the exercise of rights of common, but no consent has been obtained for the works under section 38, then an action can be brought under section 41.

Where consent has been obtained to restricted works under section 38 it remains open to commoners to take an action against the works under

Section 30 of the Commons Act 1876 if they consider that their rights are being interfered with. The courts have not been asked to decide on such a case, however, given that the consent process takes account of the commoners' interests.

An action can be brought under section 30 against a nuisance that impedes the exercise of a commoners' rights (as well as against enclosures or encroachments). This may, therefore, give a slightly wider scope for a commoner to take action rather than against restricted works.

Conclusion or Action:

- ❖ That contact is made with the owners identified on the registered title deed, asking if the bund/embankments could be removed or moved back so historic use can be reinstated.
- ❖ Write to the Secretary of State or Welsh Minister
- ❖ Consider engaging a solicitor for a legal interpretation and costs.
- ❖ Apply to the County Court requesting an order that the land be restored to its original condition.
- ❖ That resident/s pursue the relevant course of action could be a way of resolving this issue.

- ❖ Explore if the Commoners or any local resident will take the matter forward with the support of the Community Council.
- ❖ Leave as status-quo.
- ❖ Inform the local community the Community Council is unable to take this any further.

The above may not be limited, and members may have other avenues they wish to explore.

Member's conclusion:

Members noted the report and no further action to be taken at this stage.

Reports to: - Raglan Community Council

Subject: - Replacement Benches

Report: - by the Clerk

Date: - April 2021

Members will recall over the last twelve months the Community Council received a number of emails expressing concern over the state of benches that have been placed in different locations around the village of Raglan.

It's been noted that several of the benches have fallen into disrepair, and the Community Council are not responsible for several of them.

I have obtained estimated costs to replace the existing timber benches with steel powdered coated benches that will come with a 25-year guarantee.



The bench to the left is a bench seat that is fabricated from steel, hot dipped galvanized for weather and corrosion protection, then painted in a 2-pack acrylic paint in colour of choice. It is made to any length but more commonly 1500mm, 1800mm, 2000mm and it comes with a 25 year UK guarantee. It was proposed that this bench replaces the two benches located at Crown Square in Raglan.

The current timber benches were installed to celebrate the investiture of the Prince of Wales, Prince Charles.

These benches could be fitted with a plaque to explain that these benches replace the existing ones.



The bench to the left is to celebrate the 75th anniversary of VE Day. Again, this bench seat is fabricated from steel, hot dipped galvanized for weather and corrosion protection, then painted in a 2-pack acrylic paint in colour of choice. It is made to any length but more commonly 1500mm, 1800mm, 2000mm and it comes with a 25 year UK guarantee.

It was proposed that the Community Council purchase two of this type and place in the following locations

One, to replace or provide an additional bench outside the Church in Raglan

Two, site the bench outside the gate at Llandenny Church

It has been suggested that following the death of the Duke of Edinburgh, Prince Philip, that the Community Council purchase a bench in his memory. An estimated cost for a bench of this type would be £1,495 +VAT.

Over the last twelve months the Community Council has accrued finances due to the Covid pandemic, and this would give something back to the community and serve as a reminder of the major things that have happened in the last twelve months. Again, this bench seat will be fabricated from steel, hot dipped galvanized for weather and corrosion protection, then painted in a 2-pack acrylic paint in colour of choice. It is made to approximately the same length around 1800mm, to 2000mm and it will come with a 25 year UK guarantee.

Member's conclusion:

A discussion took place with a range of views being expressed by members. After some debate it was:

Proposed: by the Chairman that the Clerk places an order for two benches to replace the wooden benches on Crown Square, with new plaques informing residents that the bench is replacing the existing bench representing the Prince of Wales investiture, and the second new bench celebrates the life of the Duke of Edinburgh. It was also proposed that a bench to represent the 75th anniversary of VE Day, will be installed by the memorial stone in Raglan Village.

This was agreed by all those in attendance.

Cllr Dave Bevan asked if the Community Council would purchase some silhouettes of soldiers that served and lost their lives and serving service personnel in the services.

This was agreed by all those in attendance.

Reports to: - Raglan Community Council

Subject: - Review of transfer and arrangements of both Community Councils

Report: - by the Clerk

Date: - April 2021

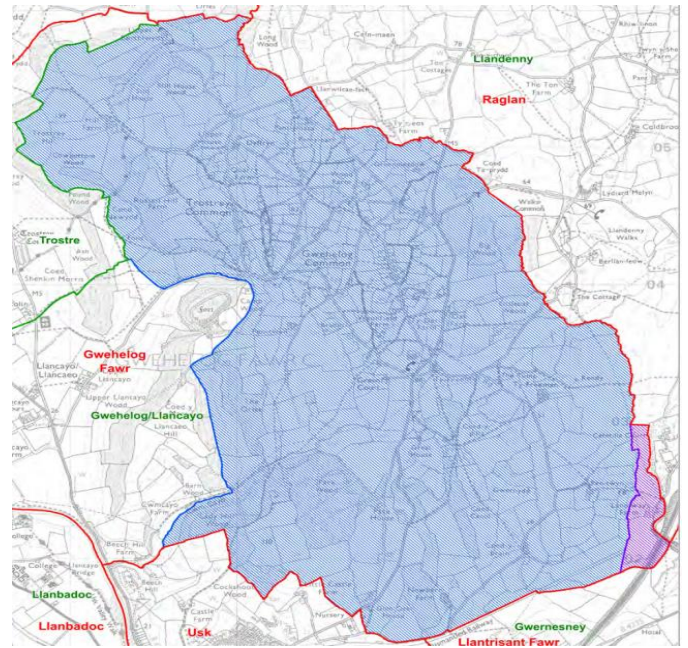
This is a report to members of Raglan Community Council to identify some of the issues the Community Council may have following the electoral review of Monmouthshire County Council electoral arrangements.

Members will recall Monmouthshire County Council conducted a review of the Community and Town Councils in Monmouthshire and that review was presented to Julie James, MS Minister for Housing and Local Government. Among the matters the LDBCfW Commission considered was the size of Monmouthshire County Council area and the number and boundaries of its Electoral Wards based on the existing pattern of communities and community wards.

Raglan Community Council will be taking a large area of Gwehelog Fawr area, as Gwehelog Fawr Community Council is being disbanded due to the recommendation from Monmouthshire Council to apply two changes to the existing community boundary of Gwehelog Fawr.

The proposed changes will involve transfer of areas from the Community of Gwehelog Fawr into the communities of Llanarth and Raglan.

For members information, you can see from the plan to the right, the area being transferred into Raglan Council area. I contacted One Voice Wales (OVW) over several matters, relating to this change to the local boundaries of the Community Councils. With Gwehelog Fawr being disbanded I have asked about some legal duties and the transfers. One main point with Gwehelog Fawr being disbanded, is the current Clerk of Gwehelog Fawr in a position where the post will be redundant.



OVW latest response was:

This is the sort of information and advice we are trying to obtain on behalf of Monmouthshire Community & Town Councils.

Redundancies, TUPE arrangements, asset transfers, division of funds some or all may apply to councils.

Regards

Transfer of Precept:

This matter also needs to be addressed. I have looked for information relating to the transfer of any financial balances following the disbanding of Gwehelog Fawr Council. Currently I unable to find any information or guidance relating to this matter. I will point to the reply from OVW above.

A difficulty relating to the transfer, is part of the Gwehelog Fawr community will be transferred to Llanarth area. Balances and assets will need to be divided relating to the population in that community. As I can see it, there is no formula to be found. After looking at the minutes from Gwehelog Fawr Community Council, it would appear the balance year end March 2021 was around £4,031.76.

From the report submitted to LDBCfW the number of electors in Gwehelog Fawr area is 384, with an estimated 223 electors being transferred to Raglan Community Council area. It would be assumed any assets like benches, notice boards or fixed equipment will remain in the current location.

So currently if the merger was carried out in March this year the financial asset to be transferred to Raglan Community Council would have been an estimated £2,340.92 and the balance of finances transferred to Llanarth Community Council. I believe that process would be seen to be open and transparent for the electorate and Audit process.

Minutes and decisions:

Consideration needs to be given to the storage and keeping of the minutes that have been signed by subsequent chairs over the years. As members will be aware the signed minutes, minutes of proceedings of a council and of its committees must be kept. They are formal records of official acts and decisions and are legal documents.

TUPE:

I have enquired about the legal transfer of employment. Transfers within public administrations both the Acquired Right Directive and the TUPE Regulations make it clear that a reorganisation of a public administration, or the transfer of administrative functions between public administrations, is not a relevant transfer within the meaning of the legislation. Thus, most transfers within central or local government are not covered by the Regulations. However, such intragovernmental transfers are covered by the Cabinet Office's Statement of Practice.

The above information was taken from the Department of Business Innovation & Skills, a guide to the 2006 TUPE Regulations for employees, employers, and representatives

Conclusion:

- ❖ I would recommend that copies of the minutes are stored on the Community Councils website and copies sent to the Wales Archive Centre in Aberystwyth for historic keeping.
- ❖ A formal transfer of any finances is overseen by the Director of Finance or the Monitoring Officer at Monmouthshire County Council.
- ❖ Regarding merger of both Community Councils, later this year a press release is made in conjunction with Gwehelog Fawr Community Council.
- ❖ Consider taking legal advice from UCAS or a specialist in employment law
- ❖ I would suggest that a shadow period is considered by both councils so hopefully a seamless transfer will occur from the 12th May 2022

Without any formal advice from the councils' advisers (One Voice Wales) the above may not be limited to all the bullet points above.

Member's conclusion:

A wide and varied discussion took place with a range of views being expressed by members. After some debate it was:

Proposed: The Community Council should seek the views of the Monmouthshire County Council legal team and ask them for their advice and guidance on the matter. If the advice is not forthcoming the Clerk should seek the views of a Solicitor that specialises in Local Government and Employment Law. The Clerk will report back to all members with any advice.

This was agreed by all those in attendance.

4912 **Agenda item 7:-** Consider the year end 31 March 2021 accounts.

**Raglan Community Council
Clerks report
Budget to year end 31 March 2021**

	Apr '20 - Mar 21	Budget	❖ Over Budget
Ordinary Income/Expense			
Income			
Allotment Income	120.00	600.00	-480.00
Interest Income	3.63	13.00	-9.37
Miscellaneous	7.00		
Precept	39,933.00	39,933.00	0.00
Total Income	40,063.63	40,546.00	-482.37

Expense			
Allotments Expenses	0.00	1,250.00	-1,250.00
Bank Service Charges	25.00	25.00	0.00
Charitable Donations	51.00	250.00	-199.00
Councillor Expenses	2,550.00	2,800.00	-250.00
Hall Hire	0.00	200.00	-200.00
Insurance Expense	388.70	480.00	-91.30
Office Expense			
Audit	635.65	400.00	235.65
Consumables	50.41	200.00	-149.59
Election Expenses	0.00	250.00	-250.00
Equipment	0.00	300.00	-300.00
Members Training	0.00	500.00	-500.00
Office allowance	400.00	400.00	0.00
One Voice Wales	0.00	400.00	-400.00
Postage	0.00	300.00	-300.00
Professional Fees	40.00	400.00	-360.00
Software	91.65	100.00	-8.35
Staff Training	30.00	200.00	-170.00
Stationery	0.00	120.00	-120.00
Travelling Expenses	0.00	150.00	-150.00
Website	473.00	525.00	-52.00
Total Office Expense	1,720.71	4,245.00	-2,524.29
Staff Costs	8,132.37	8,200.00	-67.63
Village			
Christmas Lights	3,900.00	5,000.00	-1,100.00
Costs of Memorandum	0.00	13,000.00	-13,000.00
Dog Waste Bins	1,389.70	1,440.00	-50.30
Ground Maintenance	0.00	1,400.00	-1,400.00
S151 Officer Payments	4,897.95	12,000.00	-7,102.05
Village - Other	699.74	3,000.00	-2,300.26
Total Village	10,887.39	35,840.00	-24,952.61
Total Expense	23,755.17	53,290.00	-29,534.83
Net Ordinary Income	16,308.46	-12,744.00	29,052.46
Year end 31 March 2021	16,308.46	-12,744.00	29,052.46

Proposed by: Cllr Leacock seconded by Cllr Lynne Eilertsen that the report is accepted

All those present agreed

4913 Agenda item 9:- To consider purchasing replacement benches for the community.

Proposed by: Cllr Leacock seconded by Cllr Jones this agenda item is noted as the matter was discussed above in the minutes.

All those present agreed

4914 Agenda item 9:- Reports from the County Councillor

Cllr Jones gave members a verbal report on several topics. The topics related to the following.

The outcome of Legal advice from Monmouthshire County Council legal dept regarding Treworgan Common. Cllr Jones and the Chairman explained that residents have been informed, following several emails from Cllr Jones the Clerk and resident. The Clerk explained that this item will have further details in the report attached.

Cllr Jones explained that ongoing review of electoral arrangements in Monmouthshire is still proceeding and at present Cllr Jones has no further information.

Cllr Jones advised members that she had received an email from a company that can provide a service relating to DNA testing the dog mess. The email explained that DNA technology is the only way to guarantee compliance and solve the dog mess problem.

A wide and varied discussion took place with a range of views being expressed. After some debate it was:

Proposed: to note the correspondence at this stage.

All those present agreed

4915 Agenda item 9:- Reports from members on outside bodies

Cllr Exton informed members that the Headteacher of the Junior school will be leaving the school and taking up a role in a different school. It was agreed that a letter from the Community Council is sent to the Headteacher wishing her well in the new post.

Cllr Leacock explained that she had been contacted by some residents asking if Raglan can have the public conveniences re-installed in the village.

Cllr Leacock also raised an issue over the condition of the road surface on Monmouth Road, and the way potholes have been serviced.

One member raised the issue of the land adjacent to Hill House. The Clerk explained that this parcel of land was put forward for development in the last two LDP's and the Planning Authority refused consent to be considered. He explained that the same parcel of land is put forward again for inclusion in the RLDP, Monmouthshire County Council are considering again under the Candidate Site reference number CS0015.

A wide and varied discussion took place. After some debate it was:

Proposed: that the Clerk formally responds to the inclusion on the register.

All those present agreed

Cllr Exton asked about a Planning Application as the applicant had contacted her believing the Community Council was holding the application up. Application address is Oakfield Llandenny. The Clerk explained that the Community Council

have made observations, but the Planning Authority are waiting on the new recommendation from the NRW relating to phosphate from any new proposed development. The Clerk will forward information to Cllr Exton.

Cllr Exton asked why the security fencing around the bus shelter hasn't been removed when it would appear all the work has been completed. The Clerk will contact the relevant officer at Monmouthshire County Council.

4916 No other business was discussed, and the Chairman thanked everyone for attending. The meeting closed at 20.10hrs.

Signed by _____

Chairman
Date 26 May 2021.

Please note: these minutes are a summary of the above meeting, and a record of the decisions or resolutions moved. These minutes are not to be taken as a verbatim record of the meeting.