

ALDENHAM PARISH COUNCIL

Council Document To consider the letter received from Cornerstone solicitors regarding their request for a site investigation at Phillimore Rec for a possible phone mast.	AGENDA item 10 Full Council Meeting 26 February 2024
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Background

In November 2024, Aldenham Parish Council (APC) considered a request from Cornerstone on behalf of Walden Telecoms for them to carry out a site survey to ascertain whether Phillimore Rec was a suitable site for them to install a telecoms mast.

Councillors discussed this and concluded, that with the proposed café works and refurbishment of the children's play area, that there was insufficient room for a mast with the proposed compound required and so resolved

That Waldon/Cornerstone Telecoms were advised that APC do not give permission for a site visit to Phillimore Rec and ask them to investigate other possible locations.

Cornerstone's response

On 13 February 2024 a letter was received from solicitors acting on behalf of Cornerstone which stated that their client is entitled to carry out a survey and it concluded

If, within the next 28 days, you:

- a) do not respond to the Notice; or
- b) you confirm that you do not agree to enter into the Agreement;

Cornerstone will be entitled to apply to the Tribunal for the order imposing the Agreement. However, it remains Cornerstone's hope that this will not become necessary and that parties can commence meaningful discussions and access will be granted.

We recommend that you contact Michael Griffin of Waldon Telecom by telephone (+44 7949 582216) or email (Michael.Griffin@waldontelecom.com) within the next 14 days to confirm a suitable time and date where access may be given.

In the event terms cannot be agreed between the parties and to avoid the costs of litigation, our client is willing to engage in ADR (Alternative Dispute Resolution), in order to address and narrow any terms in dispute. We propose, initially, to have an all parties without prejudice meeting either principal to principal or with representatives attending for each party. This would be held virtually with the purpose of trying to understand any concerns you may have and how we may be able to address these. We would also consider mediation in circumstances where there is a genuine intention to narrow the terms in dispute. We suggest mediation is arranged to be held over video conference, with the cost of the mediator to be borne equally by the parties and with each party bearing its own legal costs. If this is agreed we will provide you with the name of a number of mediators, for your consideration and agreement. Please confirm whether you would like to arrange a without prejudice meeting in the first instance to discuss this matter further.

Following receipt of the letter the CM, after speaking to the Chairman contacted a solicitor who has acted for APC before on such matters. His advice was, let the site visit proceed, but ask Cornerstones lawyers for an undertaking for any APC legal and surveyor fees to be met by Cornerstone. He added that there is not really any legal way to object to a site visit. If the matter proceeds to tribunal then the costs to APC could exceed tens of thousands of pounds.

The fees for the experts to look at this matter initially will be in the region of between £4 -6,000

Recommendations

- a) That APC employ Russell Cooke Solicitors and TDC Property to provide legal and expert advice in this matter, providing an undertaking can be obtained from Cornerstone that their fees will be met by them.
- b) That Russell Cooke Solicitors contact Cornerstones solicitors to obtain this undertaking regarding fees and to arrange a date for when the site visit can take place.
- c) Once the undertaking is received then TDC/Russell Cooke Solicitors advises Waldon Telecom of the plan's APC have to build a café in Phillimore Rec this year.

Reasons for recommendation

As the solicitor stated APC have no choice but to accept the site visit. However, it reserves the right to point out to Cornerstones the fact that there is very little of Phillimore Rec that would be available to site the mast as it is either,

- A protected sports field as a registered with Sport England
- A children's play area which has just expanded to take up most of the space available
- A wildflower meadow
- A small copse which would interfere with telecommunication waves
- An allotment protected under various allotment acts.

Alternative options

That APC refuses the request for the site visit and allows the matter to proceed to tribunal. This may affect the council's reserves.

Financial Implications

If the undertaking to meet the APC legal fees is agreed there will not be any implications. If not, then the budget should allow up to £6,000 at this stage from professional fees.

If there was to be a mast built, there would be either a ten year rental agreement or a one off fee received by APC.

Risk Management Implications

If this matter was to proceed to planning, then APC would need to explain to its residents, and in particular the users of Phillimore Rec why this is the case. The siting of a mast in the recreation ground could have an affect on visitors to the recreation ground which may affect the café.

Members are asked to consider this report.

Peter Evans,
Council Manager