

The September issue of the Rettendon and Battlesbridge newsletter included an article title “Collected Comments on the Parish Council Chairman’s report, published in the July/August 2018 edition of the Rettendon and Battlesbridge newsletter.” Neither the Chairman nor any members of Rettendon Parish Council were given the opportunity to comment on this article before it was published. This document provides the response from Rettendon Parish Council, agreed 30 October 2018 under agenda item 120.

1. “The Parish Meeting was called at the request of a number of residents exasperated by the apparent lack of action by the PC in doing anything”

RPC response: The fact is that 6 people signed a letter calling for a Parish Meeting, out of the total Rettendon parish electorate of approximately 1,600 people.

The wording in the letter was to request a parish meeting to discuss matters arising from the Bell Fields. No mention of exasperation or the performance of the PC.

2. “With regard to the proposed construction of a community building on the Upper Bell field, the previous PC had drawn up detailed plans, held an exhibition, and conducted a Parish-wide survey, with a majority in favour of such a building.”

RPC response: The previous PC had indeed paid to have drawn up detailed plans of the building. The most recent design included an estimated build cost of £253,000 from a quantity surveyor employed by the PC. The previous PC may have had some general discussion with other potential sources of funding, but it had confirmed no other source of funding than RPC. There is no evidence of the previous PC having prepared estimates for running costs, or any ideas about who would pay. No evidence of any dialogue with local groups who might pay to use it. Not even a list of what activities were intended to be accommodated in the design.

The survey in Feb 2015 asked: “Do you agree in principle, for the establishment of a new multipurpose building on the Bell Field, for the use and benefit of all residents?”

Without a proper plan, or an indication of where the funding would come from, how could anyone make an informed choice? Even with such a leading question, only 57% of the votes were in favour, with 43% against. Given that the survey described a “multi-purpose” building, and made no mention of costs, it’s surprising that the “no” vote was as high as 43%.

60% of the households who received the survey (which included a stamped, addressed envelope) were not sufficiently interested even to tick a few boxes and post their reply.

3. “As this was being disregarded by the present PC, the poll was requested in order to try to progress the matter.”

RPC response: The poll was requested by 17 people, out of the Rettendon parish electorate of approximately 1,600 people.

If the 2011 – 2015 PC had worked to progress this project, and the “current PC” had inherited a live project, perhaps the story might be different. In reality the current PC inherited a plan for a building with an estimated £253,000 price tag and an approved planning application, but a list of important items missing, including:

- a. Confirmed sources of funding to cover estimated build costs (and some contingency)
- b. A detailed project plan

- c. A clear statement of purpose, outlining what uses the building was designed to accommodate, and what requirements it was intended to satisfy
- d. Consideration of the potential impact on the existing Memorial Hall and its use and income
- e. A detailed, approved business plan to consider on-going costs, management, confirmed or potential sources of income

At least one member of the “current PC” is and has been in favour of a pavilion but has not driven the project forward. So, how would a parish poll progress the matter when no progress had been made in the last two years or more by those proposing a pavilion?

4. “Unfortunately, the question put to residents basically asked if the PC should spend lots of money, with the predictable turkey/Christmas response. Pointing out the cost of the poll cast those who called for it in a bad light. The sum involved is chickenfeed compared to that spent on solicitors (over £7,000 to date and £30,000 earmarked for further legal fees), which is not mentioned.”

RPC response: The question put forward (by 1 of the 17) for the parish poll was “Should there be a multi-purpose community building on the Upper Bell Field and paid for out of Parish Council Reserves?” The poll took place on 11 Jan 2018. 125 votes were cast in favour, 203 against.

The 17 people asking for the poll had plenty of time to prepare their question. They could have worded it (for example) “... and paid for with up to £40,000 of Parish Council Reserves, and the remaining costs to be covered by grants from 3rd parties.”

The “turkey / Christmas” comment presumably aimed at the 203 members of the parish who made the effort to go to the Memorial Hall and vote “no” is disrespectful.

Parishioners have a right to know that the poll had to be funded out of RPC funds. There is no shortage of opinion aired about how RPC spends public funds, so it’s unclear why the cost to the parish of £1,509.80 for this poll should not be made public.

5. “Which brings us to the thorny topic of the Bell Fields. A bit of background is needed here. The Bell Fields comprise 2 fields (‘upper’ and ‘lower’) opposite the Bell Public House, which were bequeathed to ‘The churchwardens and overseers of the poor in the parish of Rettendon’ for the use of the people of Rettendon.”

RPC response: The fields were part of Rettendon Great Common and were not “bequeathed” but were allotted and awarded to the “Churchwardens and Overseers of the Poor” in the 1861 Inclosure Award. (“Bequeath” means to leave personal possessions to a beneficiary in a will, which is clearly not the case here.)

6. “At some time in the past, the churchwardens were replaced with the Parish Council who subsequently set up two registered charities for the two fields, with trustees taking on the role of administering the fields in accordance with the terms of the bequest.”

RPC response: It is not correct to state that churchwardens were replaced with parish councils. The Local Government Act of 1894 transferred specific powers, duties and liabilities of the churchwardens and overseers of a parish to the local parish council. The two charities were registered many years later in June 1976. Both cite the 1861 Inclosure Award as their governing document. (As per item 5, it was not a bequest.)

7. "The trustees were drawn from the parish council, but the two roles of parish councillor and trustee should have been kept separate."

RPC response: Parish records support the view that, up to May 2013, RPC behaved as a body as the sole trustee. For example, trustee matters were discussed at RPC meetings, and documents pertaining to the fields were signed by the RPC Chairman on RPC headed paper. RPC should indeed have kept its role of trustee separate and should have held separate PC and trustee meetings.

For reasons unknown, at its Annual General Meeting in May 2013, RPC elected 5 named members of the parish council (but not all 9) to be trustees of the "Upper and Lower Bell Fields Charities." There is nothing in the agenda for this meeting to explain why individual councillors were to be elected as trustees instead of RPC acting as a body as in previous years.

At its Annual General Meeting in May 2014, RPC agreed to appoint all councillors to be trustees of the two charities.

This rather conflicts with a note written by former RPC Chairman Ron Fallows dated 17 Dec 2014 stating "The Charity Commission confirms that RPC is the charity trustee for both sites having replaced the Churchwardens and Overseers of the Poor (Local Government Act 1894, re-enacted as section 79 of the Charities Act 1993)."

8. "From this point there should have been no parish council involvement, as the Bell Fields became independent, properly registered charities."

RPC response: The 1861 Inclosure Award allotted the 2 fields to the churchwardens and overseers, and the 1894 Local Government Act transferred their relevant powers, duties and liabilities to the local parish council, i.e. RPC, from which point RPC as a body became the sole trustee.

Legal advice sought by RPC confirms that either the Local Government Act of 1894 applies (and RPC is the sole trustee as a body), or section 300 of the 2011 Charities Act may apply in which case RPC would have sole responsibility for appointing trustees and each trustee would be appointed for a term of 4 years.

In summary, RPC is either the trustee itself as a body, or it appoints the trustees.

9. "The change in Parish Councillors should have had no bearing on the trustees of the Bell Fields. Unfortunately, the people involved were not scrupulous in making clear what hat they were wearing (trustee or parish councillor) in their dealings regarding the Bell Fields."

RPC response: The parish council elected in May 2011 behaved as though it was the sole trustee up until May 2013 when, for no apparent reason, it decided arbitrarily to elect named parish councillors as trustees. In dealing with trustee matters in parish council meetings, the 2011 – 2015 PC were indeed not scrupulous in making clear what hat they were wearing.

10. "This has led the present PC to claim they still have some role in the running of the Bell Fields."

RPC response: The Inclosure Award and subsequent acts of parliament (see above) caused RPC to be either the sole trustee or to have sole authority to appoint trustees. This view is

supported by a legal opinion from a specialist in charity law.

If the author has evidence to support the view that RPC no longer has either of these roles (for example an act of parliament, or dispensation from the Charity Commission), please do make it available to RPC's Clerk.

11. "However, instead of accepting the situation, the PC resorted to taking legal advice on the matter, which predictably said more legal work was required."

RPC response: Some of the parish councillors appointed as Bell Field charity trustees by RPC in May 2013 have decided to refer to themselves as the "managing trustees" and seem to believe they are the valid trustees and that RPC is no longer the sole trustee.

Having reasonable grounds to consider itself the trustee, or to have sole authority to appoint trustees, RPC believes it is obligated to establish its true position. The current PC has been striving to resolve the situation, but continues to be hindered by the Charity Commission's policy not to involve itself in trustee disputes (other than in exceptional circumstances), and has been confronted by wilful lack of cooperation from the "managing trustees." As a result, RPC has no option but to pursue a legal process which unfortunately causes the PC to incur costs. A relatively small group of people make a lot of noise about these costs, but express not the slightest censure towards the "managing trustees" for their lack of cooperation.

RPC is currently awaiting approval from the Charity Commission to take this matter to Court for a judgement. Parishoners can be assured that RPC will seek to recover its costs in full from the "managing trustees" and thereby reduce or eliminate any cost to the parish.

12. "The PC tried to impose new trustees and issued solicitors letters which intimidated the existing trustees."

RPC response: In July 2017, RPC followed the precedent of the 2011 – 2014 PC and elected named councillors to be trustees. Does the author regard RPC's election of trustees in May 2013 and May 2014 as an imposition? If not, what's the difference? It's difficult to see any difference other than that a small but vociferous group of people just do not like some of the current members of RPC.

RPC attempted many times to engage with the "managing trustees" before finally having to resort to legal action. The "managing trustees" continue to assert their position while providing no evidence to support it.

13. "Trying to blame the legal expenditure on an unreasonable attitude shown by one councillor ignores the attitude shown by some of the other councillors which has caused this particular mess."

RPC response: This "mess" has been caused by the 2011 – 2014 PC changing from acting as the sole trustee to electing named councillors as trustees, and by a group of people (the "managing trustees") asserting that they have somehow acquired the authority to be self-governing. RPC does not have the authority to decide sit back, ignore the mess, and waive its powers, duties and liabilities.

14. "There has also been interference by persons unknown who have caused damage to the existing building on the site, flooding of the field, attempts to change locks, and recently damage to the water supply to the lower Bell Field, all hardening attitudes."

RPC response: prior to this article, the PC has not been made aware of any damage to the building, or the water supply, or flooding of the fields. These incidents should have been reported to the police.

Following a letter from RPC's solicitor, South Woodham Ferrers FC ceased using the changing room building and confirmed this to RPC. They indicated the date of vacation, and that they would remove their own padlock from the door. RPC's solicitor advised that we fit our own padlock to protect the building, which we did. That padlock was cut through and removed by the self-appointed "chairman of the managing trustees" and thrown across the table by the same person at the next PC meeting.

15. "The PC chairman's comment "I've heard various rumours about the PC wanting to build houses on the Bell Fields, wanting to stop football being played, and so on" is particularly interesting, as it implies this is all nonsense, but there is no actual denial given."

RPC Chairman's response: I have certainly heard rumours about the PC wanting to build houses on the Bell Fields, along with various other rumours presumably intended to try and discredit the PC. I provide the following assurance:

- a) I have absolutely no desire or intent to try and change the use or purpose of either of the Bell Fields from that at present, ie as an allotment for the labouring poor and as an area for exercise and recreation for the inhabitants of the parish of Rettendon & Battlesbridge.
- b) I know of no-one else, parish councillor or otherwise, who has expressed an interest in building on the Bell Fields (other than those who want to build a "multi-purpose" community building).
- c) Anyone thinking of building houses on the Bell Fields would need the express written approval of the Charity Commission. There seems to be no reason at all why the Charity Commission would consider such a request.
- d) Even if the trustees decided they wanted to build houses, they would still need approval from the Charity Commission and approval from the local planning authority.

RPC Chairman's response: Regarding rumours about the PC wanting to stop football being played on the upper Bell field. I provide the following assurance:

- e) The purpose of the upper Bell field (exercise and recreation) is stated in the Inclosure Award and cannot be changed without the approval of the Charity Commission.
- f) It is the duty of the trustees to ensure that actual use of the field is aligned with the stated purpose (and they are accountable to the Charity Commission).
- g) I have no objection to football being played on the upper field (or even the lower field).
- h) I have no objection to the trustees entering into an agreement with one or more football clubs (or hockey, lacrosse, etc), provided that:
 - I. Use by the football club(s) is not exclusive, ie it doesn't prevent use of the field for exercise and recreation by parishioners (with reasonable arrangements agreed for when in use by the club),
 - II. The trustees give due consideration to the purpose of the charity, ie the rights of parishioners to use the field should not be unreasonably compromised regardless of how much a football club is prepared to pay in rent,
 - III. Any agreement is compliant with Charity Commission rules and guidelines, and

- IV. The Trustees follow a fair and open process to determine which groups or clubs can use the field if there are multiple interested parties.

16. "It is undeniable that there have been attempts to try to stop South Woodham Ferrers Football Club (SWFFC) playing on the ground. Initially this took the form of a dispute over the signs erected by SWFFC but escalated into solicitors letters being issued, and attempts to prohibit parking on the north side of the path which was the original line of South Hanningfield Road, as the PC claim ownership of that piece of ground, even though it should have been given to the Bell Fields in exchange for land taken when the original A130 was dualled at the junctions with the Hanningfield roads."

RPC Chairman's response: I certainly did object to retrospective planning application 17-00708-ADV submitted by the self-appointed "chairman of the managing trustees" for signs placed on the changing room building without permission. My objection was solely on the basis of multiple errors in the form, for example in section 10 the assertion that the freeholder's permission had been given. As per land registry title EX865781 the freeholder is RPC. Our permission had not been given (and in fact our permission had not even been asked). I repeat that I am not against football being played on the Bell fields and I challenge anyone to provide evidence of my objecting to it or trying to stop it.

17. "Edited by Paul Wright, Treasurer of Rettendon Horticultural Society, from comments received from many society members, and other villagers. I would prefer not to be involved, as I am no longer a village resident, but this is the situation as I understand it from many comments."

RPC Chairman's response: I have discussed this article with Paul Wright since it was published and asked why I was given no opportunity to comment on it before publication. I'm told it was because "there wasn't time" but I see nothing in this article that could not have waited to the next edition of the newsletter.