



Minutes of the meeting of the Extraordinary Board of Conservators of Ashdown Forest
Monday 22 July 2013 at 17.00
Ashdown Forest Centre

Present: Mr R Galley (Chairman), Mr M Cooper, Mr J Francis, Mr P Glyn, Cllr C Hardy, Mrs D Hurrell, Mr A Reid (Vice Chairman), Cllr R St. Pierre, Mr John Spicer, Cllr R Stogdon, Cllr S Tidy and Cllr F Whetstone.

In attendance: Mrs P Buesnel (Director) Mrs R Marriott (Clerk).

There were ten members of the public present. The Chairman declared the meeting open and stated that whilst the meeting was in public, it was not a public meeting. He invited questions from the public and stated that if the Board was unable to answer any questions at the time, written responses would follow. There was none.

| | Item | Action |
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| 28/13 | Apologies. | |
| | Apologies were received from, Cllr Barnes and Cllr Belsey. | |
| 29/13 | Declarations of any interest by Members of a Personal or Prejudicial Nature. | |
| | The Chairman and Vice Chairman declared a personal interest in Millbrook Farm. | |
| 30/13 | To discuss matters raised at the Residents' Meeting held on Monday, 15 July 2013. | |
| | 30.1/13 The Chairman stated that a note would be taken of all who wished to speak so that each member would have an opportunity to put their view forward in turn. At Mr Cooper's request, he read out Mr Cooper's email sent to the Chairman after the Residents' meeting which had been previously circulated. The Chairman invited Mr Spicer to speak first as the Conservator who had raised the need for an Extraordinary meeting at the Residents' meeting. | |
| | 30.2/13 Mr Spicer commented that the legal aspect of the land in question being acquired by Millbrook Farm by adverse possession was not the issue. What concerned him and others was the fact that a sitting Conservator should take such action. He felt that Mr Reid should have resigned from the Board before the action was taken and he was concerned at the perception of the general public. | |
| | 30.3/13 The Vice Chairman stated that as he had always absented himself when the Millbrook Farm issue was discussed, he had never spoken on the issue. Following the Residents' Meeting, it had been recommended to him that he should stand down as Vice Chairman. Initially, he has thought so but, on reflection, now strongly believed this would be the wrong course. He asked the Board to recognise the position: his wife's family had held the land since 1966; all correspondence had been directed to his wife as owner of the land. She had felt bullied and thought there was a vendetta against her. Legal opinion had been sought from four different lawyers who all said that the land should be part of Millbrook Farm. Mrs Galley had been an advisor to his wife. In 2013 resolution had been sought with the Land Registry. Adverse possession had been granted in May 2013 He reminded the Board that he had not participated in any Board Meetings that discussed Millbrook Farm. He disputed the claim of self-interest; his wife had tried to reach a mutually satisfactory resolution. He himself had given up an old access when a new access licence had been obtained for his adjacent property. There had been accusations against him of dereliction of duty and impropriety and he had been asked to stand down to pacify angry staff. However, the Forest must recognise its place in a legal world. Mr Glyn had stated that the Forest must be protected at all costs but the Forest must work with residents. Dr Prendergast had commented at the Residents' meeting that the Vice Chairman had a moral duty but he felt that Dr Prendergast's position had not been well regarded when the access to the Cats Protection site had been an issue. The Forest had to recognise its place in Society. The Board must be inclusive and have a | |

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| | clear idea of its responsibilities. The Vice Chairman then stated that he wished to continue in his role. | |
| 30.4/13 | Cllr Whetstone mostly agreed although he disputed that there had been a vendetta against Mrs Reid. He thought Dr Prendergast had dealt with Mr and Mrs Reid in the same way that he had dealt with all residents. | |
| 30.5/13 | Mr Glyn stated that the Ashdown Forest Act 1974 clearly states that the Board has a statutory duty to protect the Forest against encroachments and to protect the rights of common. He pointed out that no evidence had been provided by Mrs Reid that the deeds of Millbrook Farm contained any note of transference of the land from Earl De La Warr. He expressed disappointment that attempts had been made to blame the staff. Having looked at the file the majority of the documents originated after Dr Prendergast's resignation. There had been extensive email correspondence with the Legal Department of the County Council; at no stage had it been suggested that the subject be dropped. His final point related to the duties of public office; he confirmed his respect for the Vice Chairman's service and recognised that it had not been Vice-Chairman's intention to reduce the reputation of the Board but he had sympathy with a comment made at the Residents' meeting that the Vice Chairman "wore too many hats". He felt that where there was a choice, the Vice Chairman should have erred on the side of caution and this was the reason why his situation was untenable. | |
| 30.6/13 | Cllr St. Pierre agreed with Cllr whetstone that the staff should not be criticized. She had seen various attempts to resolve the matter but had been shocked at the Residents' meeting to discover that the Vice Chairman had been a co-owner when the application for adverse possession had been granted; she felt that he should have stood down as a Conservator. The allegations were the issue. His election as Vice Chairman had not been clear and was only resolved by the Chairman's casting vote. The Chairman confirmed that Standing Orders stated that the Chairman has a casting vote. | |
| 30.7/13 | The Chairman sought to clarify the position of the Board; members were not Trustees, the County Council was the sole Trustee. Cllr Whetstone confirmed that the matter had not been referred to either the Cabinet or the full Council and therefore, individuals could not be held responsible. Cllr Stogdon confirmed that the corporate Trustee was East Sussex County Council and if the matter was not brought before the Cabinet or the full County Council it could not be expected to act. It was the duty of the Board to manage encroachments. Mr Spicer declared, as a Commoner Conservator, that although Mr Reid had indicated that the Board must act according to law, all should act morally too. | |
| 30.8/13 | Cllr Stogdon expressed his apologies to the Vice Chairman for exposing him to the unpleasantness experienced by him and his wife following his nomination and election. However, he felt the experience and advice that the Vice Chairman could offer the Board would be invaluable in the future. | |
| 30.8.1/13 | Whilst the Ashdown Forest Act 1974 requires the Board to protect the Forest from encroachments, he suggested an elementary part of the protection must involve whether an encroachment has occurred and if so, when. It was noted that the encroachment at Millbrook Farm was first noted in 1991 but the Board took no action. If it had, it would have failed as the prescriptive period of exclusive occupation in favour of the owners of Millbrook Farm had expired; at that time the Board had already failed in its duty of "protecting the Forest from encroachment". He regretted that the Board had not taken proper advice in 2010. | |
| 30.8.2/13 | Cllr Stogdon made three points: 1. Because the Board had not acted within the time for formal notice of "Triangle". It is known that the area was enclosed before Mrs Reid's father bought the property in 1966. The enclosed area contains the septic tank and drains from the house and | |

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| | <p>associated buildings and is an essential part of the property's amenity and infrastructure.</p> <p>2. The Board would be in the same position who ever owned Millbrook Farm.</p> <p>3. Neither Mr nor Mrs Reid were responsible for the encroachment. This is crucial to the proper understanding of the conflict of interest allegation made against Mr Reid at the Residents' meeting.</p> | |
| | <p>30.8.3/13 The Board's statutory duties are wider than the protection of the Forest against encroachment. There is no evidence that Mr Reid had not discharged his statutory duties as a Board member and there is nothing in the legislation nor the Code of Conduct which would oblige a Board member to forgo any legal entitlement he may have in regard to land on the Forest.</p> | |
| | <p>30.8.4/13 Cllr Stogdon suggested the Board should review two other points raised at the Residents' meeting.</p> <p><u>1. The Trusteeship of the Ashdown Forest Trust:</u> The County Council is the Corporate Trustee, not its individual members. The Millbrook Farm matter was not referred to the County Council nor to the Cabinet and therefore Mr Reid cannot be in breach of Trust. He could only have been in breach of trust had the matter been referred for a decision by the full Council and he had failed to disclose his interest.</p> <p><u>2. Conflict of interest:</u> Since Mr Reid did not participate in any of the discussions, whether at Committee or Board level, he could not have been conflicted.</p> | |
| | <p>30.8.5/13 Cllr Stogdon then referred to an email sent by Mr Glyn to the County Council on 18 July 2013. There was no doubt about the importance of the Forest's status as an internationally important conservation site however, it was still subject to English law. The mistake the Board had made was not to seek clarification in the initial stages. He felt the Board should define its responsibilities within reason and care should be taken in terms of policy. He suggested that encroachments should be graded in accordance of importance. Cllr Stogdon expressed concern at other comments made in the email and made at the Residents' meeting. He considered that they should be treated with extreme caution. He thought it clear that some members of the Board had failed to grasp the fundamental requirement that accusations made should apply to all parties.</p> | |
| | <p>30.8.6/13 Historically, the Board of Conservators had failed in its duty by ignoring the encroachment. He considered it absurd that the Trustees of the Ashdown Forest Trust or any member of the Corporate Trustee Body had been remiss in the matter. He stated that the Trustees play no part in the day to day management of the Forest and the function of protecting the Forest from encroachments is left entirely to the Board.</p> | |
| | <p>30.8.7/13 Cllr Stogdon then commented that he thought there were doubtless many other examples of encroachments on the Forest. He suggested that the singling out of that at Millbrook Farm may be viewed as a defence of a poor record of encroachment prevention by those who should have done better and more.</p> | |
| | <p>30.8.8/13 He closed his statement by stressing that it was the Board's role was to correctly inform the public, the commoners and the staff about the facts and relevant law obtaining to Millbrook Farm. Great care should be taken to provide a balanced view of what has happened and to comply with the law.</p> | |
| 30.9/13 | <p>Mr Cooper commented that as Chairman of the RPA Committee during the period, he had attempted to keep good relations with the owners of Millbrook Farm. He had been relieved when the Adverse Possession ruling had been made as he thought it meant closure. However, recent events had proved that perception was important. The stakeholders lacked confidence and it was important that it should be regained. He suggested the Board needed a programme to define and</p> | |

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| | <p>explain the issues that mattered to the Forest and this could be done through the Forest's Strategic Plan that was in its draft consultation phase. He restated his view that the reputation of the Board would have benefitted had Mr Reid stood down as Vice Chairman. Cllr St Pierre agreed that the consultation phase of the Strategic Plan was important and suggested that when people speak strongly at an open meeting, one should listen to the intensity. She had recently raised the issue at a County Council meeting but had been told that it was inappropriate as the matter was not on the agenda. The Vice Chairman commented that it had felt like a vendetta. The way staff dealt with the public was important; they should work within the law and with local residents. In the last fifty years the Board had failed to do its duty; he had declared his interest at all meetings and he had decided that he would not resign.</p> | |
| 30.10/13 | <p>Mr Glyn thought the following facts should be made clear: the Vice Chairman had been Vice Chairman of the Board for two years prior to his standing down when he became a Cabinet member of ESCC some years ago when he, Mr Glyn, had been Chairman. No challenge had been made over the boundary between Millbrook Farm and the Forest when the Forest was sold to ESCC in 1988, nor in 1965 when the Common land was registered. No one was disputing the legal position of the adverse possession but <i>some</i> commoners, <i>some</i> residents and some Conservators had all thought there had been some degree of impropriety. He apologised for raising the issue but when the Board were about to enter a major fund-raising campaign, he was not sure the public would wish to donate under the circumstances. In answer to Cllr Stogdon's query, the term "Vendetta" had come in an email from the Chairman to the Board.</p> | |
| 30.11/13 | <p>Cllr Tidy commented that it was sad that residents had left their meeting unhappy. When she had first become a Conservator, the reputation of the Board had been in shreds. Although the Millbrook Farm issue had been settled, she wondered, due to the loose agenda, whether the meeting could resolve anything.</p> | |
| 30.12/13 | <p>Mrs Hurrell felt it important to resolve what to do. There was a need to separate myth from fact. Cllr St Pierre noted that the Vice Chairman had not been the owner when the issue had been discussed at the RPA meetings. Mr Spicer challenged that the reputation of the Board had been "in tatters"; much work had been done successfully to improve relations with Forest residents.</p> | |
| 30.13/13 | <p>The Director stressed that the issue was the reputation of the Board, staff were already receiving comments from residents about encroachments being viewed differently for residents. They had worked extremely hard to improve relations with residents and some were now reeling. All realised a need to move forward and a need to tighten up over policies and processes. The staff needed a strong and united Board behind them and the Board must accept that it was a "hearts and minds" issue and that is was for the Board to resolve.</p> | |
| 30.13/13 | <p>Cllr Tidy confirmed that the issue was not about the staff and regretted that the matter had not been discussed in a closed session. She asked the Clerk's opinion of the situation. She replied that she was worried the issue would make it more difficult for the staff to enforce the byelaws. The perception amongst staff was that in any boundary issue, it was always the Forest that gave up land.</p> | |
| 30.14/13 | <p>Mr Glyn commented that the common rights over the land would not be extinguished. The land remained common land and as such, could not be fenced. Mr Cooper felt that it would be advisable if the Vice Chairman stood down.</p> | |
| 30.15/13 | <p>The Chairman thought the position was now better understood and concluded with the following points:</p> <ul style="list-style-type: none"> • All were passionate about Ashdown Forest and its preservation. • There was united support for the staff. • He paid tribute to Mr Cooper when Chairman of the RPA Committee. • The Land Registry had made its decision with regards to Millbrook Farm. ESCC had decided not go to a Judicial Review. The ownership had been settled and the matter was now "off the table". • With regards to the Vice Chairman's position, Standing Orders did not allow any change for | |

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| | <p>six months.</p> <ul style="list-style-type: none"> • There was a need for significant engagement with all the stakeholders. • A balanced story should be put out in the public domain. • All concerned must be polite at all times. • The Board must review its policy with regards to encroachments. The Board must work within the law. | |
| 30.16/13 | The meeting closed at 19.00 hours. | |

Chairman _____
September 2013

Clerk _____