

KBCL Working Group Report 01

4th September 2019

Purpose

The purpose of this report is to inform Walford Parish Council and the Parishioners of Walford of the Kerne Bridge Canoe Launch Project as we come to the end of the third season.

Summary

The Kerne Bridge property was acquired by the Parish of Walford in June 2016 as an asset transfer from Herefordshire Council and is managed by Walford Parish Council [WPC].

The land is registered at the Land Registry with the title number HE55664 in the name of WPC who act as custodians on behalf of the parishioners of Walford.

Together with the annual precept, which is supported by taxation of parishioners based on property value, the KBCL project is the only regular revenue source to the council and as such is expected to provide for other council projects such as the Walford Community Support Scheme.

It is therefore of singular importance that the operation and value of the project be fully understood by both Councillors and parishioners alike.

The project is controlled under a contract dated 26th March 2018 which is assigned to operate until 16th April 2027.

The company contracted to manage the site is Riversea Holdings Ltd. [RHL], registered at 1 Wyeclyffe Terrace, Bath Street, Hereford, United Kingdom, HR1 2HG.

Activities of the Working Group

The working group has convened on two occasions, the first on 18th July 2019 and the second on 7th August 2019.

Both meetings were open to the public where opinions were shared with respect to interpreting the contract and their concerns associated with safety and the environment of the project/site.

Three things were identified that the WG could achieve.

1. Provide a clear overview of the project and publicise the financial contribution. This should be a positive view for the Parish and for WPC/RHL and is necessary as the financial contribution of the project is critical to support other projects such as the Walford Community Support Service.
2. Understand the obligations and liabilities of the contract. It is necessary to understand the financial risk to the Parish associated with the maintenance of the site and to define what expenditure the Parish is liable for.
3. Address issues associated with the site regarding Safety, Environmental. This needs to be done within the bounds of the Parish Council statutory duties and aligned with the Safety and Environmental WG.

Individual Issues Arising

Project Overview and Financial contribution.

A document prepared by WPC titled "Business Plan" dated May 2018 was shown to the WG this used to be available on the WPC website and provided an overview of the project, including the background and history plus a financial summary of income and expenditure. Currently there appears to be no published financial information with respect to income and expenditure of the project in connection with the due dates for payments as defined by the contract or what money has been disbursed to date for repairs and maintenance.

Definition of the Contract

At the first meeting it was clearly expressed that it was necessary to understand the contract and to work in association with RHL to achieve the greatest benefit for the parish, WG members and members of the public expressed opinions on the Contract with respect to responsibilities and liabilities for both RHL and WPC.

The title page of the contract refers to a Management Agreement which implies that the entire operation of the property is the responsibility of RHL who would under such an agreement be expected to provide a fixed payment to WPC on a regular basis and take the risk of any profit or losses based on their own management decisions.

However, the contract allows the possibility that it may be construed as a lease agreement under which a variability of magnitude of payments is allowed in accordance with the terms defined.

Further, during the 7th Aug meeting, a member of the public stated the original contract concept was for RHL to manage an asset on a landlord/tenant arrangement whereby WPC are responsible to keep the asset in a workable order and RHL are there to manage the operation at the site in return for a percentage of the revenues.

Owing to the uncertainty in the different interpretations of the contract and the lack of legal opinion the working group is unable to make a recommendation of how the contract should be interpreted.

Maintenance Responsibilities

Clause 3.3 - Records the responsibilities for RHL within the property and states "Riversea shall pay all present and future rates, taxes and other impositions and outgoings payable at any time during the term in respect to the Property, its use's and any works carried out there".

Clause 3.4 - Relates to RHL to maintain 3rd Party Insurance for liability risk in relation to the Property.

Clause 3.5 - Defines WPC responsibility within the property to repair and maintain the car park and payment machine and goes on to say that RHL is responsible, on completion of the contract, to return the site in no worse state than at the commencement in April 2017 and provides a schedule to the effect of the state at that time.

The working group was informed that since the commencement of the agreement with RHL it has been WPC position to consider all maintenance and repair costs throughout the property as the responsibility of WPC.

It needs to be confirmed if this is correct as WPC should not be using public monies for expenditure it is not responsible or liable for.

To this effect the working group was informed that 25% of all receipts from RHL has been budgeted to pay for maintenance and repairs.

To date these costs have been limited in extent, however the potential site repair costs are unknown and could potentially exceed revenues.

Liabilities

The working group was informed that RHL carries insurance to meet the requirements of the contract, however in the event that WPC is responsible for all maintenance, then WPC must carry public and 3rd party liability insurance for the property.

Currently the parking machine is not covered by warranty, there is an option for a maintenance agreement for an annual fee to cover any call out during the year.

Safety

Safety relating to Canoe launches during adverse conditions, the WG was informed that this had been discussed with the Canoe operators all of who are members of professional associations who provide a code of conduct which operators are required to follow. Therefore canoe launch safety is the responsibility of the individual operators.

Safety relating to using the road instead of the public footpath to gain access to the Inn on the Wye, concern was raised that there is no footpath on the road and visibility is limited on the section between the car park and the Inn on the Wye public house, it was proposed that better signage would assist in routing the public via the FP to a safer crossing point.

Overall site safety, concern was raised regarding safety to the public using the site it was suggested that a site risk register is drawn up to identify general maintenance required to mitigate potential issues.

Environment

Since the toilets at Bishopswood Village Hall were shut by Herefordshire Council in 2014, concern was raised as there are no public toilets available on the site. There is long history between WPC/BVH/HC in trying to resolve this situation which is an item already under review for discussion by the full council.

Summary

1. There is a lack of information with respect to the overall financial contribution of the project and its future contribution to the Parish.
2. There is lack of clarity as to the nature and style of the contract and who is liable and pays for the maintenance of the property.
3. There is a lack of clarity as to what repairs are required or budgeted for at the car park.
4. There is a lack of clarity as to whether a maintenance contract is necessary for the parking machine and what insurance is held by WPC to cover damage in the event of vandalism or losses due to theft from the machine.
5. There is a need to publish details of the contract and associated documents in existence.
6. There is a lack of clarity as to the potential risk and cost to the Parish.

Recommendations

1. It is recommended that the working group prepares a report to show the financial benefits of the site to the parish and a business plan prepared for a period of the next three years.
2. It is recommended that professional advice is taken to define the nature of the contract and to define the meaning of the contract in respect of who is responsible for maintenance and repairs.
3. It is recommended that WPC confirm 25% of receipts are held in reserve for maintenance works that WPC is liable for.
4. In the interests of the taxpayers of the parish, it is recommended that the insurance certificate and summary of cover is published on the PC website.
5. It is recommended that a structural and general inspection survey is conducted on the site, and that RHL/WPC prepare risk register for the site. This is of particular importance as it is minuted that WPC did not undertake any searches of the property before transfer in 2016.
6. It is recommended there is improved signage to assist the public to use the public footpath to access the road.