

## STILTON PARISH COUNCIL

### **Background Information for the Purchase of the Amenity Area at Gala Close,**

#### **Stilton.**

#### **I. Report Aim**

This report aims to provide the necessary information for the Parish Council to decide whether to proceed with the purchase of the Gala Close Green amenity space.

1. The Parish Council is considering purchasing the amenity area at Gala Close from Jelson Ltd in order to ensure continued use of the area by the residents of Stilton. Financial regulations specify: *14.4. No real property (interests in land) shall be purchased or acquired without the authority of the full council. In each case a report in writing shall be provided to council in respect of valuation and surveyed condition of the property (including matters such as planning permissions and covenants) together with a proper business case (including an adequate level of consultation with the electorate)*

#### **II. The present situation**

#### 2. Gala Close Ownership

The Parish Council originally thought that Cambridgeshire County Council owned the Gala Close Green. However, subsequent investigations found that Jelson Ltd, the original developer, still owned the land. It was also discovered that it was designated as “highway” and the County Council is responsible for maintaining the grass and trees in the area. The County Council currently contributes to the Parish Council’s maintenance of this grassed area. When Jelson Ltd was told that they still owned the land, Jelson Ltd immediately offered to sell it to the Parish Council for a nominal sum.

#### 3.

The Parish Council, at its meeting on 8 December 2020, decided to proceed with a view to purchasing Gala Close Green land from Jelson Ltd as an asset for the village (following feedback from Jelson re any restrictive covenants and ownership of the brick wall to the north of the land) (decision PC201/20.3). The Minutes of the meeting were displayed on the Parish notice boards prior to the Parish Council meeting on January 2021. They are to be found on the Parish Council’s website.

4.

The Parish Council gave notice of its intention to purchase in the September 2021 edition of the local magazine, SCAN. Notice was also given at the same time on the Parish Council website and on local social media. Residents living around Gala Close were additionally informed in writing.

5.

To ensure “an adequate level of consultation with the electorate”, as required by Stilton Parish Council’s Financial Regulations, all residents were invited to a public meeting on 18<sup>th</sup> September 2021 with councillors to discuss the purchase by the Parish Council prior to making a final decision on whether to purchase. Thirteen residents attended the meeting.

The councillors explained that it was not a formal council meeting. The councillors also explained that although they were acting as Councillors they were there to listen to the views of the residents and that no decisions or promises could be made at the meeting.

It was noted that Jelsons Ltd. wished to impose covenants on the sale restricting the use to a “play area or public open space”

Overall the residents were in favour of the Parish Council buying Gala Close Green but they said they did not want a Play Park to be built on the green. They wanted some security that it would remain a public open space for a minimum period of time and asked for this to be written into the Transfer of Title document (Land Certificate).

The Parish Council has asked their solicitors to draft a covenant to this effect.

The exact wording of the covenant will be drawn up by the Parish Council’s solicitors, but it is likely to be similar to, “Providing that the land shall not be used as a Children’s play area before the expiration of 25 years from the date of this Transfer”.

## **11I. Costs to the Parish Council**

6. Solicitors fees.

At its meeting on 8 December 2020, the Parish Council agreed to appoint Roger Taylor of Wellers Law Group to act on behalf of the Parish Council in regard of decision PC201/20.3 at a cost of £700 + VAT and a maximum £60 in disbursements. (decision PC201/20.4). These sums are already committed.

7. Purchase price.

Jelson Ltd has informed the Parish Council that the purchase price for the land is a nominal sum of £1. Whilst it is difficult to value such a piece of amenity land, especially when restrictive covenants limit development, the value to the community it is clearly well in excess of the purchase price.

8. *Grass cutting.* There will continue to be costs associated with maintaining the grassed area. However, unless the Parish Council applies for the highway land to be “stopped up”, the County Council is expected to continue to provide some funds for the cutting of the grassed area (though this is dependent upon County Council decisions over which the Parish Council has no control). The Parish Council hopes, therefore, to incur no additional costs for grass cutting. The current state of the grassed area is good.

9. *Tree maintenance.* This is currently the responsibility of the County Council. However, the Parish Council includes these trees in its regular tree survey so there are already some indirect costs to the parish. If the area were stopped up the Parish Council would be responsible for tree maintenance. According to the recent tree survey, most trees are in good condition and will not require much attention in the coming years; what tree maintenance is needed will be dealt with by the County Council.

10. *Insurance costs.* Our insurers have informed us that there will be no increase in premiums following the purchase (confirmed by email on 05 August 2021). They have, however, asked us to ensure we keep a record of risk assessments, maintenance and inspection regimes.

#### **IV. Planning permission, restrictive covenants and conditions**

11. There are no applications for planning permission associated with the land.

12. The Parish Council was concerned (decision PC201/20.3) about restrictive covenants to the land imposed by the seller. The Transfer of Title document provided by Jelson Ltd indicates that “the use of land is restricted to a public open space or a play area”. However, existing residents have stated that they want the green to remain a public open space for a minimum number of years and so a covenant will be added to this effect. The fact that the land is designated as Highway Land also means that it would require Planning Permission for it to be “Stopped up”. This could be very very difficult if residents opposed such a Planning Application.

13. The Parish Council was also concerned about the ownership of the wall to the north of the land and who was responsible for its maintenance. It has been confirmed that the house owners in Norman Drive are each responsible for maintaining the wall to the rear of their properties. Evidence for this is in the Land Certificates (Deeds) of the properties held at the Government’s Land Registry. Continued access for the property owners for the maintenance of their walls will be provided.

## **V. Risks associated with purchase**

14. The risks associated with purchasing the land are those encountered with any open space – damage or illegal occupation resulting in the cost of eviction, repair and clean up. The area has not been subjected to such problems in the past and the area is well overlooked by the houses in Gala Close. With this history, the risks are considered to be low.

15. Due diligence: It is a requirement before purchasing land for Stilton Parish Council to check if the land is contaminated. No evidence for this has been found to date. The site was agricultural land with a small pond before becoming a housing development. A Purchaser's Contaminated Site Survey Report was commissioned. (report attached). However, trial sampling pits were not undertaken because the Parish Council has no plans to change the land through excavation or building. Were this to happen in the future, then the appropriate action would be taken.

## **VI. Risks of non-purchase**

16. Now that attention has been drawn to the ownership of the land, there are clearly risks should the purchase by the Parish Council not go ahead. For example, should Jelson Ltd sell the land on the open market, the Parish would have no effective control over the future of the land even if Jelson Ltd applied the same covenants.

17. More seriously, should Jelson Ltd decide to apply for the land to be stopped up, and succeed in doing so, it would no longer be part of the highway under the control of Cambridgeshire County Council. With current (and changing) planning regulations, the land might then be developed for housing and the amenity space lost to the village for good.

## **VII. Conclusions and recommendation**

18. It is concluded that there are no restrictive covenants that might prevent continued use of the amenity area as at present. Furthermore, the Parish Council is convinced that local residents wish it to proceed with the purchase of the land. A number of residents have urged the Parish Council to continue the current use as a public open space and the Parish Council has no problem agreeing to this, as it has no plans to change the current use. Now that Jelson Ltd is aware that it owns the land, there are risks if the Parish Council decides not to purchase the amenity area. It is therefore recommended that, in keeping with decision PC201/20.3 taken in December 2020 and in consultations with residents, the purchase of the land at Gala Close proceeds and the Transfer of Title document be duly signed to complete the purchase.