

## **ASSETS AND AMENITIES OPTIONS REPORT**

### **1. BACKGROUND TO EXPLORATORY WORK ON DEVELOPING ASSETS AS FUTURE INCOME SOURCES**

The parish council is a legally constituted entity, accountable in law at elections to its precept payers for its financial and commercial decisions, which must in every respect be consistent with statutory requirements. Since the council's key priorities are to promote the village of Dymchurch and the welfare of its residents (and visitors), it has an obligation to plan ahead, taking advantage of new opportunities as they arise, and thus bequeathing a successful council and thriving village to its eventual successors.

In May 2016 the (then existing, since disbanded) Assets and Amenities Working Group was tasked by the full council to produce a short paper on potential asset Acquisitions, Conversions and Sales over a period of some ten years. The paper was written by its Chairman and was discussed at the Working Group's meeting in June 2016, with its recommendations being presented to and being accepted by the full council at its meeting in July 2016. It was readily agreed that nothing should be set in stone and that all options should be considered, including any that emerged through the subsequent process of public consultation.

The timescales recommended by the Working Group and agreed by the parish council in July 2016 are: improvements to the parish council car park in three years; the council offices in five years; and the recreation ground in ten years. Other improvements to residential amenity might include several of the Coastal Community Group proposals such as a financial contribution towards the painting of high street shop fronts, improvements to the area either side of the central toilet block, a skate park, a bandstand, and achievement of the Blue Flag Award.

### **2. THE PRESENT FINANCIAL POSITION OF THE COUNCIL**

Recent legislation, and in particular the Localism Act (2011) has markedly broadened the potential scope of local amenity that can be provided by a parish council. At the same time, the effects of continuing central government cutbacks and mounting financial pressures on the local government sector are being felt everywhere, and at all levels. Advance forecasting is of course fraught with danger, but it is probably more likely than not that at some point over the next decade, Kent County Council's (KCC) wings will be clipped still further, Shepway District Council (SDC) will find itself part of a unitary arrangement of four or five Kent councils, and more powers and responsibilities, currently administered at county or district level, will be transferred to town and parish councils. The more ambitious of these councils will also seek to satisfy the likely and wholly understandable growth in local demand for more amenities. Given that there is unlikely to be any corresponding increase in public sector funding available to parish councils, it necessarily follows that Dymchurch parish council will need to find new, additional income streams if it is to

fulfil its statutory obligations and to maintain current service provision, let alone to initiate any future programme of new amenity provision and enhancement. It further follows that it is likely to require a solid base of income-earning assets to deliver its aims and objectives.

There is an expected national funding gap of £5.8 billion for local government by 2020. As is the case for all parish councils, the recent (22<sup>nd</sup> November 2017) Treasury financial settlement predictably offers no direct transfer of funds to Dymchurch parish council. It also reduces the sum paid in grant (the old Revenue Support grant) to district councils to practically zero, increasing the pressure on them to devolve some future service provision to town and parish councils. Shepway District Council in turn provides no direct transfer of funds to DPC. The parish council is not empowered to collect business rates, and is entirely reliant for its annual income on car park charges, small VAT rebates, trading licences and the precept levied upon local households. At the same time, despite a prudent approach to spending, it is facing a range of additional demands upon its budget, several of which – such as election provision, training requirements, an office secure entry system, servicing of Freedom of Information requests, and Data Protection monitoring expenditure – are outside the control of the council. The effect has been an increase in the precept for 2018/19 by £47235. Such increases cannot of course be sustained indefinitely and especially if, as has been threatened, after 2020 central government chooses to impose limits on the annual precept increase for town and parish councils.

At the start of 2018 the need, therefore, for DPC to identify and then to generate further sources of income is still more urgent than was the case even in May 2016. A report in 2017 underlined the point, commenting that *‘in a time of increasing austerity and reduced funding across all areas of local and national government, parish councils need to provide innovative and constructive ways of self-funding to ensure they provide the much needed facilities to local residents.’*

### **3. LOCALISM AND THE GENERAL POWER OF COMPETENCE**

Parish councils are corporate bodies, with powers accumulated through legislation since 1894. The Localism Act 2011, Chapter 1 of Part 1, Sections 1-8 provided local authorities with a general power of competence, a power which replaced the earlier power of well-being, and was brought into force by SI. 961 of the Localism Act 2011 (Consequential Amendments) Order 2012 on 28<sup>th</sup> March 2012. The Explanatory Memorandum to The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 no. 965 states that *“The Government’s intention in providing eligible parish councils with the general power of competence is to better enable them to take on their enhanced role and allow them to do the things they have previously been unable to do under their existing powers.”*

The government intends councils should use this power to work with others to provide cost-effective services and facilities in new ways to meet the needs of local communities. The General Power of Competence, Localism Act 2011 Section 1 (1) gives local authorities, **including eligible local councils such as DPC**, *“the power*

*to do anything that individuals generally may do*” as long as they do not break other laws. It is intended to be a power of first, not last, resort. A council such as DPC, can therefore in principle lend or invest money, set up a company or co-operative society to trade and engage in commercial activity, including residential or office development, and run public amenities such as a community shop or post office.

The council can seek other sources of funding such as Community Infrastructure Levy (CIL), sponsorship, commercial activity and agreements with other authorities. Councils can receive income as a consequence of using the power; they can provide or lend money to support a local activity. They may take out loans for specific commercial purposes. However, to use this power the council must have the support of the local community. While councils are encouraged to be innovative they must be aware of the risk of being challenged or of the damage to the council’s reputation and public money if a project goes wrong.

Councils must continue to comply with relevant existing legislation - employment law, Health and Safety legislation, equality legislation and duties related to data protection and freedom of information. If a council wishes to trade it **must** set up a company or co-operative society and abide by company law, or else enlist the services of a specialist developer. Trade includes the purchase and sale of land for housing purposes, as well as the sale and purchase of the houses themselves. The council can also charge for services that it provides under the general power of competence.

#### **4. REVIEW OF CURRENT ASSETS, EXPENDITURES AND INCOMES ARISING**

##### **Recreation Ground:**

The recreation ground is a site of over eleven acres. It is gang mowed by the contractor on an average of 18 cuts each year, dependent upon the weather. Recreation ground costs also include weekly play equipment checks, an annual inspection summary, tree inspection and surgery, repairs and maintenance, litter picking, the CCTV camera maintenance and link to the police response, alarm maintenance, and pavilion utilities. The total sum budgeted for in 2018/19 is £13,100. The recreation ground earns no income as such.

##### **Pavilion:**

The pavilion is a decaying asset, one that is becoming increasingly expensive to maintain and repair. The pavilion produces very little income, as it attracts increasingly few users, and currently none at all. Apart from the sum of £600 for electricity, water and waste water allocated for 2018/19, there are no further expenditures budgeted, and the assumption is that the pavilion, which is not fit for purpose, will not be used.

##### **Car Park:**

The parish council’s decision some years ago to introduce pay and display machines in the Bull’s Field car park has proved to be a very wise one. Income now usually

exceeds £30,000 a year. Total budgeted expenditure for 2018/19 amounts to £9435, together with £2000 for litter picking, which is included in staff costs.

#### **Burial Ground:**

Annual income is minimal, averaging £300. Budgeted expenditure for 2018/19 is £2300. The site is mowed on an average of 18 cuts each year, tree inspection and surgery and memorial garden flower beds are attended to.

#### **Seawall:**

Budgeted expenditure in 2018/19 is £16,650. This sum includes leasing charges and fees, buoy maintenance, repairs, maintenance of the well-being equipment, the alarm link and maintenance, CCTV monitoring and management (including webcam), grass cutting, bench renovation and summer season children's entertainment. There is a kiosk situated at the central slipway while the former kiosk near the Ocean Inn was demolished in 2017.

#### **Council Office:**

It is acknowledged that the Council Office is another asset that is barely fit for purpose, despite relatively recent cosmetic renovation and decoration. There are issues with access and toilets, and the building is certainly not Equality Act compliant. It is also somewhat small, and cannot accommodate more than a single employee and a small number of members of the public at its council meetings.

#### **Other Parish Assets:**

The war memorial is attended to by a volunteer, the maintenance of the Cannon outside New Hall House costs £250 a year; it is painted occasionally.

The three public notice boards require wood preserve occasionally; a sum of £600 is budgeted.

Public seats and benches need wood preserve, preferably annually; a sum of £500 is budgeted.

Annual maintenance for the Millennium Clock amounts to £200

A sum of £600 is set aside for village signs and floral displays, and a further £400 for turning on the Christmas lights.

From the above, it will be clear that there is little, if any, scope for increasing the parish council's income from its *existing* assets. Indeed, a more likely scenario, on unchanged policies, is slightly reduced income and a continuation of escalating expenditure. There might be a small increment in income if car park charges and recreation ground hire fees were raised, but to say the least it would be modest. The council has previously set its face against the introduction of charges for newer facilities such as the popular August beach entertainments and the well-being equipment. Previous experience suggests that bids for external funding – in particular, for the construction of a new pavilion – invariably result in disappointment (see later). Where the council chooses to continue to submit such funding bids for specific projects, it is recognised that it will need the active assistance of paid professional bid writers to stand any chance at all of success.

To this end, it was agreed in July 2016 that DPC should establish a timetable over which any assets plan should be delivered, identify which options should have priority, and then conduct research into the various options for assets development, calling upon outside, professional expertise where necessary. The parish council has therefore been carrying out feasibility studies in recent months. These have included contact with architects, the local planning authority (SDC) and Kent Highways to seek their views on the possibility of small housing developments at the car park and/or at the recreation ground.

The involvement of local residents is critical, and the council's position has always been that no decisions will be made until there has been extensive public consultation. This undertaking was emphasised by the Vice-Chairman of the council (the author of the original report) in his address to the Annual Parish Meeting in April 2017.

## **5. BULL'S FIELD CAR PARK**

In a letter to residents in February 1987, the then Chairman of the parish council, Cllr. Deighton, explained that SDC had agreed to sell 'the overflow car park beside and behind the Village Hall' to DPC. He added that DPC would now have responsibility for the costs of upkeep, repairs and improvements, confirming that 'there can be no return to free passes'. This remains the position to this day.

The car park falls in Zone1 for flooding purposes, which might reduce the prospect of SDC support for any housing or parish office development there (although premises on the seafront was fairly recently granted planning for the building of flats).

There are potential income streams from developing up to six three-bedroom town houses on the (unused) Bull's Field land at the rear of the site, or else four such houses and a new parish council office and meeting space at ground floor level, with two two-bedroom upstairs flats for rent. The rents would assist towards the running costs of the parish council office and the upkeep of the building. This option would require planning permission, with some of the funds initially required for development secured through borrowing, or else through delegation of the development to a dedicated housing development company.

The council would also like to resurface and mark out the present car park, though this is a prohibitively expensive option at present estimated at £160,000. Such an initiative could, however, be financed from part of the proceeds from the sale of any houses built on the currently unoccupied and unused part of the site. The resurfacing and reconfiguring of the car park would also provide as many as thirty additional parking spaces through a more efficient design, and thus generate a very valuable additional revenue stream.

A more immediate option might be to increase the parking capacity by converting the present grass land at Bull's Field to provide an extension of the present car park. This would create up to 30 additional spaces and therefore increase car park

revenue by several thousand pounds a year. There would of course be an initial capital expenditure in levelling the ground, ensuring appropriate drainage capacity, covering the area with tarmac or similar material, and marking out the parking spaces.

In any event, any development at the car park will require a financial outlay to commission a Drainage Impact and Flood Risk Assessment, and a Transport Statement, both in accordance with the requirements of the Technical Guidance to the National Planning Policy Framework. The costs of this work were estimated in February 2017 at £3400 (excluding VAT). Any development will also require the creation of a suitable route for fire tenders and refuse collections, as well as the removal and replacement of the present height barrier.

## **6. THE PARISH COUNCIL OFFICE**

In 1969 planning permission was granted to convert the old, disused fire station to parish council offices, and in 1971 the parish council became the sole owner of the premises. In the same year, the council altered the deeds of the building, for the premises to be used a parish council office only and (unfortunately, as it has turned out) arranged for the original use – as a dwelling house or fire station – removed from the title deed and a complex pre-emption clause was added to the deed.

An ongoing issue for the last five years has been the council's quest to alter the deeds to the parish council offices at 13 Orgarswick Avenue. In 2012, the parish council first began to consider options relating to its offices, in particular to make them Equality Act compliant, or else to sell and then relocate. The latter option would require alteration of the deeds to incorporate their original use. Legal advice confirmed that such a change would require third party consent. Since then years have been spent in negotiation with the third party's solicitor, which has proved to be an exercise in procrastination, with up to nine months taken to respond to letters written by the parish council clerk and solicitor. Finally, in January 2017, DPC's solicitor confirmed that their solicitor has agreed to the pre-emption clause, but the process of changing the deeds is still not complete a year later.

The present position is that the legal delay, which is not of DPC's making, clearly needs be brought to an end. The third party has been given a deadline, early in 2018, to make an offer – expected to be in the region of £90,000, if the third party declines the offer to buy, the council could opt to sell the building to a private developer, though this would probably require advance planning permission from SDC. If any such offer is accepted, or else the building is placed on the open market, then the resulting sale would mean that the parish council would need fairly speedily to find alternative accommodation, either temporarily (prior to buying new premises, in part from the proceeds of the sale) or permanently. For any period that the parish council has no offices of its own, it would need to rent a central location, at an estimated annual cost of between £6000 and £9000; a permanent move to the car park location (see earlier) is unlikely to materialise for some years.

If the third party declines the offer to buy, or if for some reason the deeds remain unchanged, or if the parish council has second thoughts, there is the live alternative of re-designing the present building to produce a more functional and suitable layout. An extension of the present council office into the small back garden would provide much needed additional space, and an allowance has already been made for such an eventuality in the council's capital budgeting for 2018/19. Disabled access would be achieved via the side of the present property and a purpose built ramp into the building extension. The extension would also incorporate a small kitchen, an accessible WC, an archive storage facility and a second office.

## **7. THE RECREATION GROUND**

DPC's involvement with the recreation ground dates back to November 1927, when it was reported at a parish council meeting that six acres of land had been offered as a gift to be used for sport and recreation in Dymchurch, on the understanding that the parish council undertook the future maintenance and cost of laying out the field in a condition suitable for the playing of sport. Acceptance of the gift was agreed at a parish meeting in December 1927, though the cost of maintaining a recreation ground was contentious and subsequently led to a reference to such costs being made in the 1929 conveyance at the Second Schedule (C) *'to use the council's utmost endeavours to secure that the property shall be so administered as to be self-supporting.'* In September 1928, a group called 'the playing field committee' formally offered the land to the parish council subject to approval of the terms of the conveyance, which was then signed in March 1929. The effect is that since that date the recreation ground has been open at all times to sports clubs and to members of the public for their use 'by right'.

In 1933 a small plot of land was purchased (referred to in the 1934 conveyance) to provide improved access to the recreation ground. In 1976, the parish council agreed to purchase additional land to extend the recreation ground to its current size of 11.6 acres, thus providing greater space for sports and recreation. In 2011, play equipment was installed, funded by the Roger de Haan Charitable Trust, at a cost in excess of £120,000. The play equipment was funded largely through the efforts of the Dymchurch Parish Plan Action Group.

The recreation ground was specifically acquired on the understanding that it would be self-supporting, and that the pavilion (see later) should not be a burden to the ratepayer. A local organisation, The Friends of Dymchurch Recreation Ground (FDRC), have produced and circulated to residents a shopping list of initiatives designed to increase the use of the recreation ground and to produce additional income. Their suggestions include, though are not confined to, boot fairs, outdoor concerts, open air theatre/cinema, food festivals, exercise classes and circuses. As was the case with the Parish Plan Action Group, the parish council is of course happy to support community groups wherever their efforts to provide facilities and to raise funds are economically feasible and lawful. Such self-help is applauded, though funding cannot of course be provided by the parish council. In this context the decision on the part of the FDRC to apply to KCC for the recreation ground to be registered as a Village Green is perplexing, since the council's advice from KALC is

that should the application be successful it would then preclude the pursuit of most new initiatives on the recreation ground, since a village green is solely a place for exercise and recreation. The parish council has registered an objection to the application on the obvious ground that all residents should have been formally consulted before the application was submitted.

A more radical option for the recreation ground, and one that would be ruled out if the recreation ground becomes a village green, is the eventual construction of about ten larger houses, with a mixture of two, three and four bedrooms, on approximately two acres of the recreation ground, either on the perimeter or else, and more probably, in the current pavilion area. This enabling development would allow the parish council to pursue a planning application alongside a developer who would then pay a land value to DPC which has been estimated at over £1Million. This could provide for considerable improvements at the recreation ground and within the village. While, naturally, no planning application has been submitted at this very early stage, there have been informal consultations with Kent Highways, SDC and Sport England, with the aim of establishing their views about access, flood risk, amenity provision, social housing and enabling development. The outcome of these discussions has been generally positive.

The recreation ground is situated in Flood Zone 3, and so development is therefore certainly not ruled out on flooding grounds. Informal discussions reveal that development might be looked upon favourably by SDC, though probably not on the perimeter, but rather in the current pavilion area, backing on to the railway. Discussions with Kent Highways have established that so long as visibility concerns (the tree line to the road edge going west; the warning lights for the railway) are addressed a highway objection to development is unlikely. Sport England might object to the loss of a section of the playing field, though any such objection is much less likely if the application for housing is regarded as an enabling development, with part of the receipts earmarked to finance the construction of a new pavilion.

In any event, any development at the recreation ground will require an outlay to commission a Drainage Impact and Flood Risk Assessment, and a Transport Statement, both in accordance with the requirements of the Technical Guidance to the National Planning Policy Framework. The costs of this work were estimated by in February 2017 at £4000 (excluding VAT).

## **8. THE PAVILION**

In 1929, the recreation ground immediately became the home ground of Dymchurch Cricket Club, and a loan of £350 from Kent County Playing Fields enabled the Cricket Club to build a pavilion, which was completed in 1931. At different times, the recreation ground and pavilion have been used, among others, by cricket, football, hockey, bowls and tennis clubs. By 2015, however, Dymchurch football club had ceased to operate, while in 2016 Dymchurch Cricket Club merged with another local Club and vacated the recreation ground and pavilion. Since this time no clubs or teams have used the recreation ground.

On several occasions the parish council and other bodies have attempted to obtain external funding to build a new pavilion, though without success. A Dymchurch Sports Association was formed in 1997 with a view to securing National Lottery or other funding, but nothing came of their efforts. In 2013, the council engaged a professional bid writer to write a business plan and development brief, and to make applications to funding bodies, including the Kent Cricket Board, the Kent Football Association, SDC, Sport England, the KCC Members Fund, the Big Lottery, the Inspired Facilities Fund and the Roger de Haan Charitable Trust. The rejection letters offer a significant insight into the failure to attract funding – inadequate evidence of sustainability (how enough revenue will be generated from users to keep the facilities well maintained); insufficient focus on providing a *range* of sporting and leisure or well-being activities for residents of all ages (particularly *young* people) and both genders; and guarantees that the pavilion would keep existing participants playing sport and continue to attract *new* participants, playing a range of sports. The absence of proposals for a gym, and for the promotion of sports such as squash, badminton, netball and basketball was also noted.

The pavilion is a decaying structure; it is currently used by nobody; a small fortune in maintenance and repairs has been spent on it over the years; a recent report has confirmed the existence of asbestos; it is nowhere near meeting current health and safety legislation, nor the various provisions of the Equality Act. The parish council has no option but to address the question of how to proceed with regard to the pavilion. Total expenditure on the pavilion by DPC over the six financial years from 2011/12 to 2016/17 has amounted to £30986.15. This expenditure includes annual utilities payments, general maintenance, repairs to the roof, repairs following several outbreaks of vandalism, redecoration, repair of showers and boiler, installation of CCTV, and unblocking of drains. The Council cannot afford to keep spending ratepayers' money on an asset which is not used.

In July 2017 a meeting at the pavilion was held with the Environmental Health and Safety Officer from SDC. He identified a leakage in the roof that was causing water seepage around the electrical box in the main area ceiling. He suggested that the floor area should be flattened, and identified several trip hazards. He pointed out that there was no access to WC facilities from inside the building and confirmed that it does not comply with the requirements of the Equality Act. His professional advice included: the commissioning of an asbestos survey; the draining of the water tank (or its removal and operating instead from the mains only); the installation of sanitisers in the WCs (to prevent the need to use hot water from the tap); the monthly sanitising of the shower heads (as is done at present); and the running of the water each week when the tank is full to prevent legionella.

The Asbestos Survey ( September 2017) recommends that the asbestos found in various parts of the pavilion should be removed, and that access to the pavilion should be restricted until such remedial action is carried out under the Control of Asbestos Regulations 2012. Asbestos training should be provided for all employees. At present, the pavilion is not used at all, and no provision has been made in DPC's budget to pursue the expensive option of removing the asbestos. DPC has a responsibility to manage the decaying pavilion and to prevent exposure of its

employees as far as is reasonably practicable; if the grounds man enters the building, he wears a safety mask. In the highly unlikely event of the pavilion being hired out, notices warning of the existence of asbestos would need to be prominently displayed, while any user must have his/her own insurance cover as DPC's insurers do not provide cover as the building is unsuitable for hire, and is not compliant with the required legislation.

The Dymchurch Cricket Club had a historical responsibility for the maintenance of the pavilion, but over the years the burden has instead been shouldered by the parish council. Now the Cricket Club has left the village to play its matches elsewhere. The deeds clearly require the property to be self-supporting, but it is obviously not, and indeed has not been for many a year. Moreover, it fails by a long chalk to meet the requirements of the Equality Act. It has no disabled access and, among other costly improvements, it needs separate male and female changing rooms.

Estimates for the rebuilding of the pavilion vary, though it is understood that any reconstruction, depending on its size and facilities on offer, would cost a minimum of £200,000, and might indeed run to as much as £650,000. The ideal arrangement would involve the construction of a new pavilion enabling changing for all-weather sports and recreational activities, and used to support the multi-games area already located on the recreation ground. There is no prospect whatever of DPC finding such huge sums unless there is housing development on the recreation ground.

It is sometimes suggested that the council should opt to renovate the present pavilion and, in so doing, ensure that it is more, though not entirely, fit for purpose; its layout would mean that it would still not comply with all statutory requirements. This is scarcely a cheap option; estimates of the cost of renovation, to include the removal of asbestos, reach as high a sum as £125,000; the council does not have anything like the capital funds that would be required; in any event, it is not a sensible approach at a time when the pavilion remains unused; given the huge expenditure already committed to repairs and maintenance in recent years, it would simply be a case of throwing good money after bad.

A more robust alternative is simply to demolish the pavilion: an estimate (July 2017) puts the cost of demolition at £14897 (plus VAT). This sum could, if necessary, be financed from DPC's capital reserves.

## **9. CONCLUSIONS AND RESIDENTS' SURVEY**

The conclusions arising out of this Report are simply stated. **In the present and projected future financial circumstances, the parish council is left with no option but to find additional sources of income.** It has a right and, indeed, an obligation to explore a range of feasible options, and to then, over a period of ten years, act in accordance with any options that it has chosen. It is committed to full consultation with all residents of Dymchurch, and will be guided by their views. It must be stressed that there can be no 'do nothing' option; in the absence of support for creating new income streams, the result will be some combination of gradual

reductions in local services, continuing and appreciable precept increases and the demolition of the pavilion.

Dymchurch Parish Council  
January 2018

**Please therefore consider all the information contained in this Report and then return your completed form to the parish council office in the envelope provided**

**The parish council is grateful you are taking time to give us your views.**

**QUESTION 1**

**Would you support the creation of additional car parking spaces in the Bull's Field car park? YES/NO**

**QUESTION 2**

**Would you support the construction of new houses on the unused area of the Bull's Field car park? YES/NO**

**QUESTION 3**

**With regard to the parish council office, do you think the council should sell the present building and relocate, or apply for planning permission to extend the present building? SELL THE BUILDING/EXTEND THE BUILDING**