

**ELECTORS MEETING**  
**23 August 2018**

**Present:** Councillor Upson (Chairman) and R. Middleton Deputy Town Clerk

**92 Members of the public were in attendance.**

The Chairman opened the meeting at 6pm and explained that the meeting was not an open Town Council Meeting as described on a leaflet that had been circulated by a group, but was an Electors Meeting called by six electors of the parish and as such was governed by legal rules and that the only item that could be discussed was the item shown on the agenda -

"To deal with the issue that have arisen from the contracts between Hemsworth Town Council and Saul Construction, re the sale of Hemsworth Sports Complex."

Questions relating to the contract were asked by Councillor Womersley, Mr. Kenyon, Mr. Throner, Ms.L. Crawley, Mr. Richardson, Mr. Stratford, Mr. Warren, Mr. Donaldson, Mr. Pringle and others

- the £1.4 million due to the residuary body,
- the VAT element of an invoice,
- the documentation provided to Councillor Womersley,
- the condition of the land at the Kirkby Road Complex,
- who owned the land still,
- whether the developer is in breach of the contract,
- why was the 1.4 million not pursued after a full Town Council voted and instructed the Town Clerk to do so,
- why did the developer pay to Hemsworth Town Council £50,000 of the £350,000 if the planning had been quashed and the S106 agreement quashed when the planning was quashed,
- where do we go from here and was the land sold on a turnkey agreement.
- Councillor Womersley stated that he intended to reclaim the facility and provide two football pitches on it.
- Mr. Kenyon questioned the validity of a V.A.T invoice to the developer and the interest payment for late payment.

Other topics were raised but the Chair informed the meeting that they could not legally be discussed as they had not been placed on the agenda by the electors calling the meeting

Councillor Upson – responded to each of the questions, summarised below and gave a brief recap of events that have led to the present situation.

- The Council did agree to pursue the outstanding payment due to the residuary body of £1.4m and will still do so when outstanding section 106 money is secured, circumstances having changed since that original decision was taken and the Council now needed to retain ownership to protect the Townships interests until the Section 106 was finalised.

- Hemsworth Town Council did believe that the developer was in breach of contract however that was not straight forward as there are provisions in the contract to allow an extension of time in exceptional circumstances, and that the quashing of the planning permission outside of the recognised time limit, along with the reasons for allowing a deferred time limit for final payment may provide a reason to contest any breach of contract claim by the developer.
- The ongoing challenges to the planning permission made by Mr. Kenyon which had already resulted in the loss of £350.000 of affordable housing for this community had enabled attempted challenges to be made to the outstanding sports element of the Section 106 of the planning, of £350.000, i.e. Hemsworth Town Council being excluded from some negotiations that it should legally have been part of.  
While ever the last payment is outstanding, Hemsworth Town Council remains the owner of the site. This means it must be part of any negotiations with the Section 106 money and can therefore have valuable input to try to ensure it remains at its negotiated value and is spent within its agreed location of the Hemsworth township.
- The allegations around the V.A.T payments to the developer were not true. The land deal with the Council and the developer meant that VAT had been dealt with in line with the specialist advice taken and that a VAT inspection by HM Customs and Revenue of the Council's records specifically over the land deal had been completed in 2013 and the Council had received confirmation that the VAT records were correct.
- Councillors Womersley's claim that he had had no response to his request for information was untrue and that he had had a lengthy "bundle" response from the Council and the Chairman had a copy with him at the meeting.
- Statements made about the condition of the Kirkby Road Complex and ongoing tipping. The Chair disputed this and said the developer had been locked off site for some considerable time and that any claims of ongoing access needed to be backed up by evidence but he would ensure the locks were changed as a precautionary measure.
- The £50,000 Section 106 was paid by the developer after renegotiations involving Hemsworth Town Council and WMDC and used to upgrade the Cemetery Road facility. The developer agreed to pay this even though he was not obliged to do so at that time.
- The contract did contain "turnkey elements".
- As stated previously the Council will pursue finalisation and outstanding payments due to the residuary body when it believes it is the best interests of this community as a whole to do so

Meeting closed at 19:35

Rachel Middleton  
Deputy Clerk  
23 August 2018

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