

## BIRLINGHAM PARISH COUNCIL

Minutes of meeting held on Wednesday 18 September 2013  
Birlingham Village Hall

### Welcome

- 1) Present: Councillors Hall, Morris, Aston, Butler, Comins, Hill and New.  
Councillor Davis, Tree Warden and Mrs Cook
- 2) Apologies: Footpath Warden
- 3) Declarations of Interest
  - a) Register of Interests: Councillors are reminded of the need to update their register of interests.
  - b) To declare any Disclosable Pecuniary Interests in items on the agenda and their nature.
  - c) To declare any Other Disclosable Interests in items on the agenda and their nature.

(Councillors who have declared a Disclosable Pecuniary Interest, or Other Disclosable Interest which falls within the terms of paragraph 12(4) of the code of conduct, must leave the room for the relevant items)

- 4) Minutes of previous meeting. The Minutes of the meeting held 17 July 2013, a copy of which had been circulated to all Councillors were amended. They were then agreed as a true record and signed by the Chairman.
- 5) Democratic Opening - appended  
The democratic opening is a time allocated at the discretion of the Council/Chairman to a maximum of 30 minutes. Residents are invited to give their views and question the Parish Council on issues on this agenda, or raise issues for future consideration at the discretion of the Chairman. Members of the public may not take part in the Parish Council meeting. This period is not part of the formal meeting: brief notes will be appended to the minutes as an aide memoire. A Councillor with a prejudicial interest in a particular issue may address the Council on the issue during Public Question Time subject to the Councillor leaving the room in the event of an exchange on the issue between the public and the Council during this period.
- 6) Progress Reports
  - a) Footpath
    - i) Footpath 502 (Eckington Road to Bakers Hill) hedge cut back and stile cleared.
    - ii) Footpath 511 (Withy Walk) sprayed.
    - iii) Footpath 522 (Nafford weir to lock) strimmed.

Half yearly Footpath Report for Worcestershire County Council completed and sent.

- b) District Councillor
  - i) Apologies for not attending the last meeting.

- ii) Wychavon District Council is battling with their budgets and cost cutting. £4million has to be saved in the next 4 years. 2017/18 could be worse. Recommendation to cease food waste collection from next January saving £550,000. Went out to consultation and 88% voted in favour of stopping. Campaign for “love food hate waste” to encourage recycling.
- iii) New Homes Bonus application has been accepted. Wychavon District Council not happy with the Bonus scheme being cutback. It will be phased out.
- iv) There is a £42.9million budget.
- v) Oak tree – if an application comes in to fell the oak tree Councillor Davis and the Clerk are to be informed by Wychavon District Council. It is the wish that the tree is pruned to make it safe rather than fell it.
- vi) Public speaking at committee. Relayed concerns on extra 3 minutes. This is an additional 3 minutes for Parish Councils whereas before they shared their time with other bodies.

c) County Councillor – not in attendance.

d) Clerk – see Appendix.

## 7) Planning

a) Report on current outstanding planning applications - none.

b) Applications approved/refused

i) W/13/01226/CU – The Paddocks, Broadway Road, Birlingham WR10 3AF

Conversion of domestic stable and barn to live/work unit

APPROVED 20 August

Parish Council comments:

1. In the absence of any explanatory detail we assume the application is for a work/live unit converted out of an agricultural barn.
2. As such it would appear that the work element would meet the requirements in the Wychavon Local Plan RES7 but it is not clear whether the residential element if not required for business purposes would pass the criteria in RES8.
3. If the application is allowed, we would suggest that a restriction should be placed on the permission preventing the future division of the property into separate ownership.

ii) W/13/01360/HET – The Paddocks, Broadway Road, Birlingham WR10 3AF

Application to extend time limit for the implementation of planning permission

W/10/01718/PP for proposed ground and first floor extensions and double garage

APPROVED 24 July

Parish Council comments: none

c) Public Speaking at the council's Planning Committee and hard copy notifications

Notification from Head of Planning - 29 August 2013

I contacted you earlier in the year on two matters.

The first matter related to public speaking at the council's Planning Committee. A dedicated parish/town council public speaking time, in addition to the time given to those in support and those objecting to a planning application, will commence from the

September Planning Committee meeting for a six month trial period. The town/parish council will be notified of relevant applications and asked to register to speak by a certain date should they wish to. There is no obligation on the parish or town council to speak.

Can I remind you that the parish or town council can use their dedicated time to support or object to a planning application. The Code of Practice is attached to this letter.

The second matter relates to hard copy notifications of planning applications and paper plans. My letter explained that it was my intention to cease sending a hard copy of planning applications from 1 September.

I know that this matter has met with some considerable concern from a number of parish and town councils. With over 50% of planning applications submitted electronically and with no paper plans submitted, considerable resource is being used to provide this service. You will be aware that the council needs to find significant savings given a reduction in government grant and the planning department must continuously look at its processes and procedures to find savings. It is unsustainable to continue to provide paper plans when the plans are available to view online and when further improvements are being made to improve online access.

Given the concerns raised I will postpone the original intention to cease sending paper plans from 1 September 2013 until 1 April 2014. In addition, the council will provide paper copies to any council from the 1 April 2014 on the basis that the parish or town council pays for the plans produced. The charges will be based on the council's agreed copy charges.

I appreciate that this decision will cause difficulties to some parish and town councils but hope that the additional time available will help with your preparations.

d) Enforcement - Consultation on the New Local Enforcement Plan

As part of our service improvements please find attached a draft Local Enforcement Plan for your consideration.

Following the introduction of the National Planning Policy Framework (NPPF), guidance on how local authorities should provide a planning Enforcement Service was contained in paragraph 207 of the NPPF. Paragraph 207 states:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”

In order that our policy for providing our enforcement service is up to date and compliant with the guidance contained within the NPPF I have attached a draft ‘Local Enforcement Plan’ for your consideration.

This proposed Local Enforcement Plan is being sent out for consultation to all Parish and Town Councils for a 6 (six) week consultation period commencing from the date of this e mail. I would be obliged therefore if you can consider the attached document and provide any comments that you may wish to make to me by no later than Friday 18 October 2013.

Any comments received will then be considered and where appropriate incorporated into the proposed document before progressing to formal adoption.

If you have any questions regarding this please contact me on 01386 565293.

Graeme Duerden Bsc(Hons) DipTP MRTPI CLMS

Development Control Manager - Enforcement

8) Financial Matters

a) Bank balance - £2,457.96 as at 30 August 2013

b) The Accounts for 2013/2014 were resolved

c) Receipts:

£120.00 – Worcestershire County Council

Payments:

£120.00 – Lengthsman (June) cheque number 284

d) Future payments

£482.95 – Clerks pay (July, August, September)

£25.00 – Clerks expenses

£120.80 – PAYE HMRC

£180.00 – Carl Brassington (July £100 and August £80)

e) Audit returned from Grant Thornton

The Accounts for 2012/2013 have been returned. There is no charge for a ‘small’ Parish Council.

Notice of conclusion of audit. This has been placed on the noticeboard and a copy has been returned to the auditor together with their survey.

f) Budget for 2014/2015

Discussion following CALC’s report to the Area Meetings. Councillors made aware of capping, subsidy, tax base and precept demand. Review again in November subject to any capping and arrangements needed.

9) Financial Regulations

The Regulations are ideally set for greater areas. It is the belief of the Councillors that the Parish Council are sufficiently covered by their standing orders under Item 8. Discussions at meetings, and therefore transparency, are felt adequate for Birlingham. NALC have a draft “Model 2” which will be kept on file should any further necessity appear to arise.

10) Jubilee Wood

There is to be a permanent Jubilee Committee. The people who were involved in the Jubilee events last year have unanimously agreed with the formation of a permanent Jubilee Committee. One person has suggested some rules, which are currently being considered.

The Jubilee Committee comprises Steve Morris (Chairman), John Hill (Treasurer), June Hiden (Secretary), Cathy Brunet, David Kew, Chris Herman and Maxine Cook, who were the main organisers of last year's events. Additional members will be co-opted on a temporary or permanent basis, as and when necessary. Current signatories to the Birlingham Jubilee account are John Hill, June Hiden and Maxine Cook.

The aims of the Jubilee Committee are:

1. To provide funds for the future maintenance of the Jubilee Wood, to monitor its progress and to take whatever action is necessary to ensure its survival.
2. To provide funds (as loans) to invest in future events that will benefit the whole village.
3. To be involved in the organisation of village-wide events, as appropriate.

With respect to the Wood, the Jubilee Committee will take responsibility for making an agreement with the landowner, for securing a tree preservation order, for placing a plaque and for the future maintenance and funding of the Wood.

The Jubilee Committee will continue to report on its activities to the Parish Council and it is to be hoped that the Parish Council will continue to show a keen interest in both the Committee and the Jubilee Wood. The Jubilee Committee's activities and use of funds will also be reported on the Birlingham website.

It is difficult at the moment to tell how many trees have survived. No-one had the responsibility at the time of the drought. Jubilee Committee will have to audit and decide on new planting which may be a spade and/or carpet job. They will have to let the Parish Council know if they need assistance. Councillor Morris was thanked for his update and ongoing works.

Tree Preservation Order – still awaiting documentation from Wychavon District Council.

11) Oak tree at The Coach House

Several people had been upset by the Tree Officer's comments and Mr Marlow's tree report. Councillor Davis had been asked to become involved. A second tree report was commissioned by Councillor Comins stating that it is possible to take necessary action to retain the tree.

What about insurance claims?

Mrs Bishton, the owner, can opt to do as she wishes. It is hoped that remedial works will be the option and to re-shape. Could Mrs Bishton see favourably with the villagers views and retain the tree and just prune it? Has this all come about because of the developer?

The tree is a focal point.

Councillor Comins was supported by Council members on getting a second opinion. Discussion on cost of his survey for next agenda.

12) Plane Tree

It was agreed to build up the precept / budget towards the 'control' of the plane tree. It is an important feature and it is believed that the villagers feel that.

Incorporate a 'tree fund' for the future maintenance and if a tree report was necessary funding would be available. There was nothing wrong with the tree at present but things may go wrong in future as it would be a 'fighting fund' against something happening. The Parish Council would have remedial care but not the trees ownership. What is the definition of 'remedial care'?

Note: the cedar in the churchyard is struggling.

13) New Homes Bonus

Annual Report and requests for advance payments (letter notification from WDC). A resolution was needed from the previous meeting agreeing to BVH application for 2013/2014 bonus allocation for microwave. Email news 32 advised that this agreement was to be discussed following the need for the Council to consult with the parish before making its decision. There has been no objections from the circular for the use of the funds. £460 was resolved.

14) Website

- *General update*: Passed 3,000 visitors mark, with 11,000 page loads
- *Advertising update* – need an agreement.

Defer as the website needs some restructure and organizing.

Should there be a separate fund?

- Which *Best Practice guides* should be put onto the website?
- Future *hosting* of website?
- *Photographs*?
- *Disclaimer*? Needs to be update.

Councillor Morris to report back to next meeting.

15) Ragwort

Newspaper article received from resident together with copy of letter sent to Chairman. Councillors discussed. It is the landowners' responsibility. Ragwort spreads so quickly. It can be sprayed or pulled out wearing gloves. It is not poisonous to animals when live but it is when in dry form. Horses are mostly affected. Agreed that if seen on the verge the lengthsman can remove although it has only been seen on the roadside in Upper End.

16) Training - Confirmation of the following events

- **CALC Networking event** - "Ways Forward for your Council" discussion evening on Tuesday 24 September 7pm to 9pm at County Hall - **£5** : Clerk
- **Parishes event** - for parish and town councils on Wednesday 25 September from 6pm to 8pm in the Council Chamber at the Civic Centre in Pershore. This will include an update on the NHB, Council Tax setting for 2014/15 and any other topical issues : Councillor John Hill and Clerk.
- **Code of Conduct and Standards regime** training (confirmed 6 August by WDC Ref: IGM/ML dated 14 June 2013 – Training) **Monday 7 October** at 7pm in the

Council Chamber at Civic Centre in Pershore : Tony Hall, John Hill, Marion New and Clerk.

- 17) Dates for next year's meetings  
Dates confirmed as Wednesdays 15 January / 19 March / 21 May with APM / 16 July / 17 September / 19 November at 7.45pm and BVH secretary has been informed.
- 18) Councillors' reports and items for future agenda  
Could a bench be erected at Swans Neck as this was Common land?
- 18) Closure – with nothing further to discuss the meeting closed at 9.00pm.  
**The next Parish Council Meeting is on Wednesday 20 November 2013 at 7.45pm.**

Signed: ..... Councillor Anthony J Hall, Chairman

Date: .....

Democratic Opening: It is hedge cutting time and the trees are under attack. The maintenance workers have an obligation to clear the debris from the roads. The hedge at Lower End owned by Mr Byrne was of particular concern.

## Clerks report

### i) News e-mail

#### [Birlingham News 31 7 August](#)

Entries for the Hanging Basket Competition are due in today, so if you haven't already entered yours now's the time to do it!

In this issue:

1. Hanging Basket Competition
2. Services at St James's Church
3. Dredging at Gwen Finch Nature Reserve
4. New Homes Bonus
5. Planning Applications

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#### 3. Dredging at Gwen Finch Nature Reserve

Worcestershire Wildlife Trust will be dredging at the Gwen Finch Nature Reserve over the next few weeks. This work was postponed last year because of the bad weather.

Two diggers will be delivered to the village on a low loader sometime this week.

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#### 4. New Homes Bonus

Since last year, the parish has been allocated an annual New Homes Bonus by Wychavon District Council. This is money the District Council has received from the Government and is related to the number of new homes occupied in the parish. Currently, the parish is receiving a bonus of £460 per year, which can be used for the benefit of the parish as a whole. Village organisations can apply for some or all of this money through the Parish Council. Last year's Bonus was allocated to Birlingham Village Hall towards the roof repairs.

Birlingham Parish Council has received a request for this year's allocation to be used by Birlingham Village Hall for the purchase of a commercial microwave. The final decision will be made at the Parish Council meeting on Wednesday 18th September.

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#### 5. Planning Applications

The following planning application has been determined by Wychavon District Council:

- **The Paddocks**, Broadway Road: Application to extend time limit for the implementation of planning permission ref: W/10/01718/PP for proposed ground and first floor extensions and double garage (Case No. 13/01360). **Approved**. Full details and conditions can be viewed on the Wychavon DC website at [www.e-wychavon.org/pl/pl.exe?cs=13/01360](http://www.e-wychavon.org/pl/pl.exe?cs=13/01360)

## [Birlingham News 32 4 September](#)

It's the Flower & Produce Show on Saturday, so time to get your entries in – and if you want to start planning for next year, seeds are available in the phone box.

In this issue:

1. Birlingham Flower & Produce Show, 7th September
2. Birlingham Flower & Produce Show – Seed Exchange
3. Swan Inn Beer Festival, 13th-15th September
4. Cricket Club Dinner Dance, 14th September – Cancelled
5. Parish Council Meeting, 18th September – New Homes Bonus
6. Harvest Festival, 29th September
7. Planning Applications

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### 5. Parish Council Meeting, 18th September – New Homes Bonus

At the next Parish Council meeting on Wednesday 18th September, the Council will be making a final decision on the request for this year's New Homes Bonus (amounting to £460) to be used by Birlingham Village Hall for the purchase of a commercial microwave.

The Council is required by Wychavon District Council to consult the parish before the decision is made, so we would like to hear whether you support this use of the funds. Please send your comments to [news@birlingham.org](mailto:news@birlingham.org).

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## [Birlingham News 33 13 September](#)

Results are in from the Flower & Produce Show – see below – and the seed exchange is underway for next year.

**Editor's note:** As most of you know already, I am attempting to leave Birlingham, once again, next week. However, I shall continue to edit the News emails and update the website, for the time being at least. I will be back at my office in the village on a weekly basis and contactable by email at all times so please continue to keep me up to date with information on Birlingham events and other items of local interest. Thanks to all those who have contributed so far.

In this issue:

1. Swan Inn Beer Festival, 13th-15th September
2. Parish Council Meeting, 18th September
3. Birlingham Flower & Produce Show

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### 2. Parish Council Meeting, 18th September

The next Parish Council meeting is on Wednesday 18th September at 7.45pm in Birlingham Village Hall. Come along and have your say on local issues.

The Agenda for the meeting is available at [www.birlingham.org/pc\\_info/pc\\_agenda\\_2013-09-18.pdf](http://www.birlingham.org/pc_info/pc_agenda_2013-09-18.pdf) and the minutes of the last meeting on 17th July are at [www.birlingham.org/pc\\_info/pc\\_minutes\\_2013-07-17.pdf](http://www.birlingham.org/pc_info/pc_minutes_2013-07-17.pdf).

If you haven't already sent in your views on Birlingham Village Hall's application for this year's New Homes Bonus, please do so before Wednesday.

ii) **From previous report- Overhanging willow tree at Gravelly Hill – report number 5704366** Asked for update 11 September. Email receipt acknowledged.

iii) **BVH Hon. Treasurer** on behalf of The Management Committee of BVH wrote to say thanks for the generous donation of £1,000.

iv) **Overview and Scrutiny** Agenda circulated to all Councillors.

v) **Oak tree at The Old Coach House**

**Councillor Comins** - 18 July copy Ron Davis

Quote “An application regarding the above was recently passed by Wychavon under 13/01096. At the parish Council last night we were amazed by the Tree Officer's decision that the prominent oak tree in the conservation Area should be felled. Oaks as everyone knows are extremely long lived and are capable of retaining their branches even when decayed. The tree in question appears only partially affected by decay and we would urge that remedial treatment is applied in order to save this well-loved tree. Many parishioners' have commented to Council members on what seems to be a very biased opinion offered by a tree consultant on the applicant's behalf. Could you obtain a stay of execution until we have time to get a 2nd opinion from a qualified person on the tree's condition”?

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**Judy Bishton** 18 July response

Quote, “I want you to know that I am devastated as you are about the possible felling of the oak tree. The building of a new driveway is not dependent on the tree coming down and I want to do all I can to save it. I am entirely with you on the seeking of a second opinion and would have done so anyway. If we can save this tree, it will benefit us all. Unfortunately, Wychavon's Tree and Landscape Officer agrees with the view of the tree surgeon who produced the survey, which had to go in with the planning application, i.e. the tree is seriously decayed in a number of places and needs to be felled”.

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**Councillor** Quote, “I'm horrified they want to fell the tree. We really need to put pressure on”.

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**Villager** 19 July

Quote, “Sorry to keep asking but we, (and some other members of the village), are most concerned that the Old Coach House planning application has been approved as this could lead to the oak tree being felled. Can you advise me what to do about this? Is there a procedure that I need to follow? I understand that the Parish Council are against this too. I feel I need to do something proactive and am at a loss about the correct procedures”.

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[Councillor Davis - 22 July](#)

Quote, "I have today had a meeting with Jim Burgin Heritage manager at Wychavon. This tree is the subject of a TPO and requires a TPO deletion order before being felled. I have asked for a meeting with you John and myself on site with the Officer concerned should an application for felling be received. I must say that the pictures I saw of this tree show it to be in a sorry state!!!!"

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[Councillor Comins - 28 July](#)

Quote, "Judy Bishton has accepted my offer of a second survey of the oak tree to be carried out by Jim Unwin which should take place soon. We should not take up Ron Davis's offer of a site meeting with the Tree Officer until the 2nd report is to hand".

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[Councillor Morris to Ron Davis - 19 August](#)

Quote, "The oak tree in question is a major and important feature in the centre of the village, and if you look at it on site you will see that it is an impressive and apparently healthy tree. Although the photographs you have seen show some decay, I think they are somewhat misleading. The decay shown is typical of oaks of this age. In particular, a large proportion of oaks develop decay at the base of the trunk; it is not uncommon to find oak trees with large cavities in the trunk and yet they continue to survive for centuries. If all oak trees of this age, with this level of damage, were to be felled we would have very few ancient oaks left.

It is plain to see that the overwhelming majority of the tree is perfectly healthy and I am shocked that your Tree & Landscape Officer agreed with the suggestion of felling the tree purely on the basis of a third-party tree survey and without inspecting the tree or seeking a second opinion.

If an application is made to fell the tree, I am sure there will be a huge public outcry and a vociferous campaign to save it. I would therefore like your reassurance that we would all be notified in plenty of time before any decision is made and that the decision would be taken by councillors, rather than officers, at a public meeting where protesters would have the opportunity to put their point of view".

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[Councillor Davis to Jim Burgin WDC - 20 August 2013](#) copied to Jonathan Edwards and Giorgio Framalico

Quote, "I trust Jim that your Officer has now had a chance to re-appraise the decision to fell this tree before I have a Village erupting into a massive protest against Wychavon!!!. I am being asked to give my assurance that the tree will not be felled (which I cannot do) so could you please let me have your thoughts before I reply".

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[Jonathan Edwards to Ron Davis - 20 August 2013](#)

Quote, "Thanks for copying me into this email. As I explained to you, this site lies about 30 yards from my "in laws" house and they sort of know some of the people involved. Because of this, I have tried to keep out of the matter and asked Dave H to sign off the delegated report. I would appreciate it if I could be kept out of this matter as may make it difficult for me to go the Swan pub if I am associated with the issue – thanks"

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[Giorgio Framilicco](#), Head of Housing and Planning Services [to Sally Griffiths](#) - 21 August 2013  
Quote, "Can you note the email from Cllr Davis below. Can you help with this issue?"

NB – can you not include Jonathan in any email exchange as his in-laws live near to the site and it is best if he is not involved"

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[Sally Griffiths to Giorgio](#) - 21 August 2013 copy Ron

Quote, "I have now had a chance review the emails relating to the oak tree at the Old Coach House.

I understand the concern expressed by local residents at the possible removal of what might appear to be a healthy oak tree and I agree that it is a significant feature in this part of Birlingham. However on being consulted on the planning application I have had the opportunity to assess the tree and the accompanying tree report myself. Incidentally the tree report was produced by Jeff Marlow who was the previous tree officer here at the District Council so I am confident that a further opinion as suggested by Mr Morris is unnecessary.

The tree has extensive decay which is not completely evident when viewed from the road. The hazard assessment shows that the tree is within direct striking distance of the road, public footpath and property. Although an application to fell the tree under the Tree Preservation Order legislation has not been received as yet I believe that it would be extremely difficult to refuse given the existing evidence. If the Council were to refuse to allow felling of the tree then we would be liable for any damage which may occur during the twelve months following refusal. As I have said given the evidence and the location of the tree damage could be extensive. I will seek advice from our legal team as to whether in this instance the present amenity value of the tree justifies the financial implications of its continued preservation.

I shall update you in the near future.

Regards from Sally Griffiths

Sally Griffiths BA(Hons) Dip LA MLI Tree and Landscape Officer

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[Ron Davis](#) - 21 August

Quote, "Good evening, This is the most recent report on the Oak Tree (as above). I will continue to put forward the wishes of parishioners for the tree to be retained"

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[Councillor Comins](#) - 22 August

Quote, "The 2nd report on the Oak Tree should be available this week and I will circulate the findings"

**B. J. UNWIN FORESTRY CONSULTANCY**

Jim Unwin **BScFor MICFor FArborA**

**Chartered Forester, Arboricultural Association Registered Consultant**

**Fellow of the Arboricultural Association, Chartered Environmentalist**

**Parsonage Farm, Longdon, Tewkesbury**

## **Tree Inspection – OAK tree at The Old Coach House, Birlingham, WR10 3AB.**

### **1. Instruction.**

1.1 Mrs J Bishton has application WDC/13/01096 submitted to create a drive about 7m south of the large oak in the north-east corner of The Old Coach House plot.

1.2 Geoff Marlow Arboricultural Consultant has advised the architect that the drive and parking bays can be constructed sympathetically to allow retention of the oak. However, he has advised that the oak is defective, and should be removed on safety grounds.

1.3 Therefore, with Mrs Bishton's permission, you have asked B.J.Unwin Forestry Consultancy to inspect and comment.

### **2. Inspection.**

2.1 I visited site on 13th August, and made an accompanied inspection with you.

2.2 The survey was from ground level, and climbing to about 6m to follow extent of basal cambial death. It involved some measurement, visual observation, and sounding with a hammer; and chisel and long steel rod if required, (Visual Tree Assessment: Mattheck and Breloer 1994 and Lonsdale 1999).

2.3 The survey was by Jim Unwin, who has thirty-seven years' experience working with trees (professional CV attached).

### **3. The Site.**

3.1 The site is a domestic garden on the edge of Birlingham, with a long frontage onto the quiet Broadway lane. Local terrain is low lying and well-drained.

3.2 2007 Google Earth aerial image shows the plot:-

### **4. The oak.**

4.1 The late-mature English oak is shown in the aerial photo above, which suggests its crown was fuller in 2007 than today.

4.2 The trunk is a massive 145cm dbh, crown spread is 9m south towards the house 12.5m away, and similar in other directions. The trunk is tall with dense secondary branches forming a lower crown. The upper canopy is quite open and may have been pruned previously. Foliage is healthy. See photo below.

4.3 The oak does have defects. The most significant is a long lesion of dead bark and cambium from ground level to at least 6m height, occupying 1.1m (about 20%) of the tree's basal circumference of 5.4m. The bark still adheres in places, and sapwood has decayed underneath. From chiselling the decay appears superficial. It is unclear how this defect originated. It is not obviously related to root decline.

4.4 Exposed and decaying sapwood on eastern side of trunk at 4m height.

4.5 Further up the tree on upper stems and along limbs are numerous lesions of dead cambium, some of which have become cavities as the tree has attempted to grow around the exposed areas of wood. The photo below shows two such cavities.

4.6 The symptoms described above: cambial death long ago but with no physical removal of bark: is typical of heat damage, as is often found on stems of garden trees exposed to hot air from nearby garden bonfires, or on thin-barked trees such as beech when newly exposed to direct sunshine by removal of other trees. This type of damage is also found on the side of trees near larger fires such as burning vehicles or even buildings. An alternative is a diffuse lightning strike.

4.7 However, this damage to the oak (however caused) may have happened many decades ago, and may not be related to current biotic attack by fungal or bacterial pathogens. The thinning upper canopy is typical of older trees, but the dense inner and lower canopy suggests the tree still has considerable physiological health.

## 5.0 Discussion & recommendation

5.1 Overall, this oak is not a candidate for an immediate “removal” recommendation without further consideration. If retained in a suitable safe condition it could become a valuable ‘veteran’ tree.

5.2 The oak is a big old tree located close to a dwelling and 6.7m from a road (albeit a quiet lane). It has defects, and although oaks can tolerate significant structural defects before failure, no tree owner should be expected to bear the responsibility of the increased *subjective* threat it poses to themselves or others.

5.3 The oak stands within a Conservation Area which gives the local authority the option of protection by a TPO. This tree is sufficiently defective (at its present size) to make it unsuitable for a TPO.

5.4 We would suggest two options:-

Fell the oak, create the new permitted drive and parking without worrying about shallow root-friendly construction, and then plant a replacement oak as an 18-20cm stem circumference container-grown plant, about 5m tall at planting. Such a tree might cost at least £300 plus cost of planting, about £500. The advantage is easier construction and long-term tree replacement. Crown reduce the oak, as shown below, to create a smaller and more compact tree. If the tree’s health is stable or only declining slowly, it could be retained for 20+ years. A reduction should make it safe from structural failure or uprooting. The advantage is retention of a potential veteran tree if it does not become too scruffy with dieback.

## 5.5 Recommendation

We would *just* err towards tree retention. Should the health of the oak decline following construction work and pruning, it can be removed and a replacement planted at anytime.

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[Jim Burgin to Ron Davis - 3 September 2013](#)

Quote, “David Hammond has just made me aware of the string of emails on this issue, as unfortunately they were all sent to a wrong email address for me (hence not receiving anything until now). I’m not aware of any developments that may have taken place whilst I was away over the past couple of weeks but will raise the matter with Sally on Thursday and one of us will get back to you”.

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[Ron Davis to John Comins](#)

Quote, “Good morning Everyone, Below: This is the latest position from Wychavon, it looks like the owner will have the final say!???” Ron Davis, District Councillor

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[Jim Burgin to Ron Davis - 5 September 2013](#)

Quote, “Have now had a chance to discuss with Sally. I’m not aware that the position has changed from Sally’s last email on this matter (below):

*Dear Councillor Davis,*

*I have now had a chance review the emails relating to the oak tree at the Old Coach House.*

*I understand the concern expressed by local residents at the possible removal of what might appear to be a healthy oak tree and I agree that it is a significant feature in this part of Birlingham. However on being consulted on the planning application I have had the opportunity*

*to assess the tree and the accompanying tree report myself. Incidentally the tree report was produced by Jeff Marlow who was the previous tree officer here at the District Council so I am confident that a further opinion as suggested by Mr. Morris is unnecessary.*

*The tree has extensive decay which is not completely evident when viewed from the road. The hazard assessment shows that the tree is within direct striking distance of the road, public footpath and property. Although an application to fell the tree under the Tree Preservation Order legislation has not been received as yet I believe that it would be extremely difficult to refuse given the existing evidence. If the Council were to refuse to allow felling of the tree then we would be liable for any damage which may occur during the twelve months following refusal. As I have said given the evidence and the location of the tree damage could be extensive. I will seek advice from our legal team as to whether in this instance the present amenity value of the tree justifies the financial implications of its continued preservation.*

We certainly have yet to receive a TPO application to carry out any works to the tree and perhaps if the owners feel sufficiently pressurised by the local community to retain the tree (contrary to the professional advice they've received), perhaps we never will. Sally remains of the view that the decay is more extensive and significant in safety terms than others may be led to believe and therefore it is most unlikely that we would refuse any subsequent application to fell the tree. As Sally has pointed out, any decision to refuse such an application, made in the knowledge of the condition of the tree (as provided in part by a recognised arboricultural professional) would place the Council at potentially significant risk of liability should the tree fail in the foreseeable.

As it stands, the owner is perfectly entitled to implement their planning consent for the new driveway with the tree in situ and any decision as to whether the tree remains in the absence of any application, also resides with the owner.

Let me know if more is needed". Heritage Manager

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[Councillor Comins to Ron Davis](#) - 6 September

Quote, "Further to the exchange of messages I am forwarding to you the second opinion on the state of the Oak Tree. As you will see this is markedly more optimistic than the Marlow report but leaves the options open to whatever the owner wishes to do. I expect we will discuss at the next PC meeting as there is still much public interest in the issue."

**vi) Local Council EXPLAINED by NALC**

Information circulated to all Councillors regarding "Explained" which is NALC's new book about local councils which is to be published on 4 October. It's priced at £49.99 and included updated model standing orders (an electronic version of which is free to NALC members following publication.) Suggest PC wait for CALC to advise?

**vii) Jubilee Wood - Stop for the moment with the "wood tidying"**

[Clerk to Lengthsman](#) - 27 July

Quote, "You know I asked last week about tidying the Jubilee Wood could you just hold off for the moment. It won't be a problem but the Jubilee fund which will pay for your work just has to have the i's dotted and t's crossed! The money is there but the Jubilee Committee has to give the go ahead rather than the Parish Council who had agreed it.

It definitely needs strimming around the boundary but it's been suggested that maybe the grass around the actual trees may be protecting them as well so it will only need mowing between the rows of saplings.

Could you confirm your rates for the job and then I will get the *committee* to give the go ahead? Sorry to delay.

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[Lengthsman response - 27 July](#)

Quote, "ok just let me know what you want and when. Rates are £15 / hour strimming and clearing £25 / hr mowing with ride on. I can cover a fair bit of ground in an hour with the big mower so I would be happy to do a morning and see how it goes then you can give me further instructions".

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[Clerk to Steve Morris](#)

Quote, "Have you had chance to email the Jubilee Committee?"

**viii) Jubilee Wood - request for assistance to save trees**

[Clerk to Wimpy Derbyshire 20 July copy Porter Farming, Tree Warden and Councillors](#)

Quote, "Following the Parish Council meeting this week I gave my concerns about the Jubilee Wood. The saplings are dying due to the weather. The area is also overgrown and there has been damage to several trees at the top of the track due to the "pickers" parking vehicles and dropping rubbish on them while in the neighbouring field. (*James please note*)

I have just spoken to Michael Porter who has said he will try and put the irrigation across onto the site. He still feels that a bowser is required to water well. Tony Hall has a bowser and mentioned that he could assist with that if necessary. *Any water from anywhere....*

So I trust Michael can help and that Tony will be able to also get into the site as well. *Over to you guys, please.....*

I have also spoken with Carl Brassington who has confirmed that he will trim and if necessary mow the area to tidy it up. The funds for his work are available, as agreed on Wednesday, from the Jubilee Reserve.

I hope we can rescue what we can so that all the efforts of last Autumn, and the agreement to place a preservation on the area for its future, will not have been in vain".

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[Stephen Morris to Clerk](#) 19 August

Quote, "Apologies for late reply on this.

I think the sudden spell of very hot weather caught us all out. The extreme sun when the trees were at a very delicate state obviously had a devastating effect on many of them, and I suspect they could only have been saved if we'd watered them in the first few days of the heatwave. I also suspect that the clear plastic rabbit guards may have acted as mini-greenhouses and amplified the effect of the sun. Having looked at the trees, a surprisingly large number of them have survived and even some of those that have lost their leaves may eventually recover (though we will not be certain until next spring).

The problem of lack of water has obviously now passed and I don't think we will need to worry again this year. I suggest that we do a survey of the trees in the next week or two to try and determine exactly how many we have lost. Perhaps you could give me a hand to do this one day? We can then take a decision about re-planting where necessary.

It is even more frustrating that a number of trees have been flattened by farm vehicles, especially as the canes and rabbit guards made them clearly visible. Again, we need to ascertain the extent of the damage and find a way of marking them even more clearly for the future.

With regard to strimming around the trees, I am not convinced this is necessary, except perhaps around the edge of the site. The grass is not particularly tall over much of the area and I would have thought it would provide the trees with some protection while they are small. Perhaps Stuart can advise.

Finally, the question of the financial implications of future maintenance. You will recall that at a previous meeting the Parish Council decided not to take on responsibility for the wood or any financial involvement. While the Council is entitled to take an interest in the future of the wood and to raise concerns – and I am very pleased that it is doing so – it does not have any control over the Jubilee fund, which is the sole responsibility of the Jubilee Committee. I have no doubt that the Jubilee Committee will be more than happy to use some of the fund for the maintenance of the trees but that decision must come from them and the Parish Council can do no more than request that this be done. The Jubilee Committee may also want to consider asking volunteers to help with future maintenance (particularly if it is not urgent), rather than paying for the work to be done.

I will attempt to put forward some proposals in time for the next Parish Council meeting in September”.

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**Tony Hall to Stephen Morris and Clerk**

Quote, “I walked down the track a couple of days ago. I was surprised how many of the trees seem to be dead. I expect it could be as high as 80% or more. With reference to vehicle damage, this is due to cars and vans parking not so much with the tractors. I would suggest that in the future a row of stakes and baler twine be put parallel with the track. It may seem a little ungainly at the beginning but it may keep traffic off the trees”.

**ix) Training on Code of Conduct and Standards Regime**  
**Clerk to Wychavon**

Ref: IGM/ML dated 14 June 2013 – Training

As requested in the above letter the event was brought to the attention of Birlingham Parish Councillors. Therefore can I ask that the following members and myself attend the training event of Monday 7 October 2013 at 7pm in the Council Chamber:

Tony Hall  
John Hill  
Marion New  
June Hiden

## Response

I can confirm that I have put your names down for the training on 7<sup>th</sup> Oct.

**x) Register of Interest forms** All forms are on the website with the exception of Marion.

Clerk to WDC

Quote, “I was checking the Register of Interest forms on the website and noticed that my email address is not showing (or linking).

I also noticed that Councillor Marion New is not listed at all. Please amend.

**xii) Website – link to WDC**

Clerk to WDC

The reply slip has been sent to Wychavon giving Councillor Morris as the name and contact to be contacted regarding the provision of the weblink from the Parish website.

**xiii) New Homes Bonus - BVH**

Previously from Wychavon:

We have recently published details of the latest (year 3) New Homes Bonus allocations on our website. These are for new or empty homes occupied between October 2011 and October 2012. Once again we have allocated 40% of our New Homes Bonus for reinvestment in local communities where the development that generated it has taken place. We invite parish and town councils to submit proposals for spending any New Homes Bonus allocations for their areas on projects or activities that deliver added value to the local community, and where possible, benefit communities close to any development that the Bonus is associated with.

To find out whether your area has generated any year 3 New Homes Bonus go to <http://www.wychavon.gov.uk/cms/housing/new-homes-bonus/parishes.aspx> and click on the name of your parish/town. The amounts we have allocated for reinvestment in your parish are shown in bold red text towards the top of the page, alongside any year 2 allocations that you should already be aware of.

We have recently reviewed our New Homes Bonus protocol. As a result, we have made a number of changes to it and our procedures for dealing with New Homes Bonus proposals. We will publish the revised protocol on our website within the next week.

I'm attaching our updated New Homes Bonus proposal form (dated December 2012) and guidance notes; these are also available on our website. Do get in touch with me if you have any questions or want to discuss your ideas before preparing a proposal.

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Clerk to Wychavon 20 July

Quote, “We didn't have any allocation this year but we still have £460 annual allocation from previous years. I have an interest from the Village Hall for an industrial style microwave. They have no facilities of this type at all and therefore want something substantial so that it lasts. Is this something that could be considered for the community and if so when would an application have to be submitted?”

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Wychavon to Clerk 22 July

Quote, “There are changes taking place with regards to the NHB and you will be receiving a letter in the next few days explaining the changes.

However, I can confirm you have £460 to spend from your bonus and I confirm a proposal for a microwave will be considered. It would probably be worth you putting in the application sooner rather than later”.

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[Clerk to Ron Davis](#) 27 July

Quote, “At the May meeting a microwave oven for the Village Hall was discussed under AOB with funds coming from the New Homes Bonus. At our recent meeting it was agreed that the PC should go ahead and support the hall with their request. I have attached the proposal form for you to have a look at before I send this through. Could you let me have your agreement/support on the submission so that we can get this to WDC sooner rather than later as we are now in receipt of the changes that are likely to occur”.

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[Ron Davis to Clerk](#) 28 July

Quote, “I fully support your request for New Homes Bonus of £460.00 towards a commercial microwave for the Village Hall which would prove to be an added advantage for people using the hall. Please ensure you demonstrate that you have consulted the Parishioners’ and have written confirmation from the Village Hall committee.”

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[Clerk to Steve Morris copied BVH Chairman and secretary](#)

Quote, “Next time you do an *email news* could you add about the New Homes Bonus and mention that this year’s allocation came in from BVH and that an agreement on a commercial microwave will be finalised (or a resolution) at the September meeting. So we have the official thing done..... Rons being particular but rightly so”.

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[BVH Chairman to Clerk](#) July 30

Quote, “On behalf of the Village Hall can I formally request that the Parish Council supports this years’ allocation of £460 being awarded to the Hall as a contribution towards obtaining and installing a commercial microwave cooker in the kitchen.

We have received many favourable comments regarding the kitchen facilities, however there is an exception. Users of the Hall are disappointed not to have access to a microwave, I know of one instance when I was asked if the caterers could bring one of their own, which was agreed.

This is something that had been discussed and agreed by our committee as a very desirable addition over two years ago, but was deferred whilst we addressed the replacement of the roof covering and associated works. All non-essential expenditure was curtailed until the roof project was completed, we are now attempting to resume the planned improvements”.

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[Clerk email to WDC](#) 3 August

Quote, “I attach an application form from Birlingham Parish Council for the New Homes Bonus allocation. I also attach an email text as written confirmation from the Chairman of the Village Hall which demonstrates they have consulted with the parishioners regarding the NHB request. The Ward Member is also in support of our request which he believes would prove to be an added advantage for people using the hall.

I hope we are successful with the application and wait to hear the outcome”.

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[Wychavon to Clerk](#) 7 August

Quote, “Have you any other evidence that the local community would support the NHB being spent on the microwave (Question 8)?”

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[Clerk to Wychavon](#) 24 August

Quote, “I don't appear to have received your email on 7th August so the 22nd is the first time I know of your request.

I can ask the Chairman for further evidence however I felt the email he'd provided really said quite alot. I will put a request out on our "email news" asking for the residents views and see what response I get”.

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[Wychavon to Clerk](#) 27 August

Quote, “The request for more evidence came from Cherrie Mansfield I will point out the letter again to her and see what she says”.

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[Clerk to Wychavon](#) 30 August

Quote, “I asked the question of the Chairman of the village hall and his response is, as follows:

I am at a loss to think of what else might be considered enough. As part of the requirements for the Leader Grant from last year we are having to ask every individual who, on a regular basis, books the hall to provide us (me) with written evidence of previous numbers attending and numbers attending since the roof project was completed. I am reluctant to ask for more email support as I am very conscious that the Hall is already asking for on-going written input and after all these are only people who book the venue.

Could you ask what Tracy she has in mind and also is the lack of “whatever other evidence” stopping the application from proceeding?

Regards Kelvin Hartshorne

What has been said by Cherrie and how do we proceed?

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[Wychavon to Clerk](#) 2 September

Quote, “I've now spoken to Cherrie and she is **happy for the application to proceed** so I will be in touch further”.

#### **[xiv\) News Homes Bonus consultation response](#)**

I'm contacting your further to our recent correspondence about the New Homes Bonus and the government's proposed changes. We have now submitted our response to the Government's technical consultation on the New Homes Bonus and Local Growth Fund, I'm attaching a copy of the response.

Can I encourage your parish/town council to respond to the consultation, especially question one, which asks for views on the proposals to pool some of the NHB and give it to Local Enterprise Partnerships. In addition to focusing on question one, you could also explain how you have spent any NHB allocations we have given you and your future plans for using NHB allocations.

Click on this link 'New Homes Bonus and the Local Growth Fund' for more details of the consultation. The deadline for comments is 19 September.

Jack Hegarty Managing Director, Wychavon District Council

#### **xv) News Homes Bonus, 2014/15 Council Tax and funding opportunities**

We are contacting you following our recent letter to Parish Clerks explaining how the government's proposed changes to New Homes Bonus (NHB) allocations to local authorities could impact on your parish or town council. There are details about the government's consultation on the proposed changes below as well as the date of an event we've organised to update you on the NHB and Council Tax setting for 2014/15. We also wanted to take the opportunity to let you know about two new funding opportunities for local communities relating to Post Offices and tackling the energy efficiency of hard to treat homes, such as those with solid walls or that are off mains gas.

#### **New Homes Bonus**

The government published its technical consultation 'New Homes Bonus and the Local Growth Fund' on 25 July. The consultation seeks views on the suggested mechanisms for pooling £400 million through Local Enterprise Partnerships to support strategic housing and other local economic growth priorities. The deadline for comments is 19 September.

We want to encourage all Wychavon parishes to respond to the consultation, especially question one, which asks for views on the proposals to pool some of the NHB and give it to Local Enterprise Partnerships. In addition to focusing on question one, you could also explain how you have spent any NHB allocations we have given you and your future plans for using NHB allocations.

We will be responding to the consultation pointing out that not only is this a u-turn, but that the proposals also go against the principles of the NHB with regard to housing growth and localism. Our Leader, Councillor Paul Middlebrough, has already written to the Secretary of State for Communities and Local Government, The Rt Hon Eric Pickles MP, expressing our concerns about the proposals. Mr Pickles has replied encouraging us and our local town and parish councils to respond to the consultation and share their views.

A number of you have been in touch following our recent letter expressing concern that you have 'lost' a proportion of your NHB allocations. We want to reiterate that we have not made any decisions about your Year 2 and Year 3 allocations that are payable from 2014/15 onwards. We have said that we will not approve any requests for advance payments until further notice. The reason for this is that we are currently unclear what the government's proposals mean for our future NHB payments, and whether or not we will receive all the payments for Years 2 and 3 that we have been promised. We expect to have clarity about this by the end of 2013 and will let you know if your allocations are affected or not.

## Parishes' event

We are organising an event for parish and town councils on Wednesday, 25 September from 6pm to 8pm in the Council Chamber at the Civic Centre in Pershore. This will include an update on the NHB, Council Tax setting for 2014/15 and any other topical issues. Please contact [tracy.perkins@wychavon.gov.uk](mailto:tracy.perkins@wychavon.gov.uk) to book (up to two) places for your council.

Can I also remind you about our neighbourhood planning seminar for town and parish councils on Tuesday, 22 October, starting at 5pm. The purpose is to promote the benefits of preparing a neighbourhood plan and explain the type of practical and financial support available to town and parish councils in this district from both Wychavon and central government. We have secured a range of speakers who have been directly involved in neighbourhood planning, either having recently started out, or who are now at a more advanced stage in the process. Please contact [sarah.matthews@wychavon.gov.uk](mailto:sarah.matthews@wychavon.gov.uk) to book places.

## Post Offices Community Enterprise Fund

I'm attaching a letter from the Rt Hon Don Foster MP about the Post Office Community Enterprise Fund. The Department for Communities and Local Government (DCLG) has launched a joint competition with the Post Office to encourage sub-postmasters to work with local people to develop innovative ideas for how Post Office branches can support local communities. There is £200,000 available to support up to 20 schemes in England in 2013/14. More information is available at [www.postoffice.co.uk/community-enterprise-fund](http://www.postoffice.co.uk/community-enterprise-fund).

## Communities energy funding bid

The Department of Energy and Climate Change (DECC) has recently announced a new 'Green Deal Communities' fund of £20 million. This pot is available for local authorities to bid for between £1 million and £3 million, to work with community groups on energy efficiency projects on a street or area basis. The funding is aimed at improving hard to treat homes – so those with solid walls, or narrow cavities, or off mains gas. It will also cover properties that cannot receive standard cavity wall insulation, such as those previously flooded. We want to hear from Worcestershire based community groups, including parish councils, who can work with us on a project of this kind.

I'm attaching more details and we will be holding an information session on the 19 August, at the Guildhall in Worcester to give further guidance on applications. To register your interest and book a place at the event please go to <http://www.surveymonkey.com/s/BXLC5YR>.

Kind regards Cherrie Mansfield  
Strategy & Performance Manager, Wychavon District Council

## **xvi) Lengthsman – Whitehall Lane**

### **Lengthsman to Clerk**

I spoke to the contractors carrying out the work in Whitehall Lane today.

They are installing new pipework to connect the manhole outside The Birches into the drain at the bottom of the road outside Whitehall Farm. This has been ducted under the road and into the existing pipework which runs into the ditch alongside the footpath. Apparently there was no connection so no wonder it was flooding the road.

They tell me that Highways had a jetting team here on Friday although I didn't see them and they jetted out the pipework.

Wimpey Bennett has also spoken with the Engineer Chris Bird at WCC and agreed to clear the farm ditches so things may be on the up.

**xvii) Road closure in Birlingham Parish**

Rob Allen to Clerk

Just to let you know we are hoping to do the dredging at Gwen Finch that we had to put off last year due to the weather. It is likely we will be dropping off two diggers on a low loader around the middle of next week (probably the Wednesday 7<sup>th</sup>) unless the weather turns horrible again.

Regards Rob Southern Reserves Officer

**xviii) Litter bins**

Thank you to Daphne Hill for her efforts with the two refurbished bins and for the donation of the preservative to restore them.

**xix) Jubilee Committee for information as it effects the Jubilee Wood**

Councillor Morris

Quote, "It's now over a year since the Jubilee and time for us to make some decisions about what happens to the Jubilee fund in the future.

At the last meeting of the wider Jubilee group (21st May 2012) it was agreed that the final decision on what to do with the money should be left with the bank signatories (June Hiden, John Hill and Maxine Cook). There were several suggestions, including the Village Hall Roof Fund but that is clearly no longer necessary.

Given the trouble we had getting the account set up, I think we should keep it open and I would like to suggest that we now form a permanent Jubilee Committee to use the account for the following purposes:

1. To provide funds for the future maintenance of the Jubilee Wood.
2. To provide funds to invest in future events that will benefit the whole village.

During the Jubilee preparations a smaller group met to consider the detailed plans. This group consisted of the main organisers of different aspects of the celebrations and I propose that the Jubilee Committee initially comprises that group. The Jubilee Committee would therefore include the following (in addition to myself):

June Hiden (Secretary)

John Hill (Treasurer)

Cathy Brunet

David Kew

Chris Herman

Maxine Cook

with additional members being co-opted by the committee as and when necessary.

I would be grateful if you could let me have your views by Sunday (15th) so that we can formalise matters and start making plans for the future.

Many thanks to all of you who worked so hard for the Jubilee (and again this year for the fete)".

**xx) Winter Service Newsletter circulated to all Councillors**

As we are fast approaching winter and the cold weather, I am pleased to enclose our new Winter Service newsletter which I hope will be a timely reminder of what we do and also answer some of your questions. Please get in touch with us if you need any further assistance.

Rachael Benson, Customer and Community, WCC

**xxi) CALC Annual Town and Parish Councils Survey**

Circulated to all Councillors. Please respond by 27 September regarding Policing in West Mercia.