

## Response to matters raised by Farrer & Co – 16 November 2017

Written by Geoff Twiss, on behalf of Over Parish Council

Farrer & Co have sent a second 13-page letter on behalf of their client, Mr Barry Papworth, making serious complaints about SCDC's handling of the recent Community Governance Review for Willingham and Over, particularly at the recent Civic Affairs Committee meeting.

In the course of that letter they have presented various assumptions as statements of fact, and have made other statements that are not supported by the evidence presented.

I will start with some general observations:

Farrers' main objective seems to be to exclude Brian Burling from any further discussion of the boundary issue, a move that would leave Over, and particularly Over Parish Council, without any informed voice on the Committee. There are two other Ward Councillors who could perhaps take his place, however:

**Ray Manning** has always vigorously supported Willingham and Willingham PC and has in any case withdrawn from this debate.

**Pippa Corney** has not attended a single meeting of Over Parish Council in the past seven years and she spoke, as a Local Member, in support of Willingham PC and in favour of moving the boundary at the last Civic Affairs Committee meeting. She is in no position to speak for Over Parish Council, and would not be able to explain our views on the boundary issue.

Farrers have made an elementary but highly significant mistake in basing their comments on, and drawing conclusions from, the **Draft Minutes**, a document that has no legal standing until it has been confirmed as a true record at the next Civic Affairs Committee meeting. They have also drawn unjustified conclusions from 'reading between the lines', as I shall explain below.

For clarity I have put comments made by Farrers in italics, indicating the relevant paragraphs in their letter of 16<sup>th</sup> November.

### Para 34b

*"Councillor Burling is a landowner of agricultural fields within the area which would be affected by the boundary change. This is a disclosable pecuniary interest within s31(4) of the Localism Act 2011. As such, Councillor Burling was prima facie not entitled to either debate or vote on the boundary recommendation."*

Cllr Burling **did** declare his interest as a landowner in the area likely to be affected by a boundary change, but he argued that its value wouldn't be affected by the proposed boundary changes, so his interest wasn't pecuniary. He sought the Committee's permission to speak and vote on the issue – and the committee discussed all the implications, and considered legal advice it was given, for almost half an hour. In the end the Committee decided that his detailed knowledge of the area and of local feelings in Over were sufficiently important to a fair debate, and his argument about the lack of pecuniary advantage was sufficiently robust, that he should be allowed to speak during the discussion but that he should leave the room before a vote on the issue – which he did.

### Para 34e

*"Indeed, it appears from the draft minutes that Brian Burling commanded a large portion of the debate on 28 September 2017. This cannot but have impacted on the Committee's final recommendation."*

The draft minutes do not attribute **any** comments to an individual Councillor, neither do they record the length of time for which any councillor spoke, nor do they try to assess the significance of any comments they may have made. They merely list, clearly and succinctly, a series of relevant points that were raised during the debate.

The minutes of the discussion about Brian Burling's interests inevitably focussed on him but, even then, there is no evidence in the minutes to support the claim that he 'commanded a large portion of the debate'. This charge is pure invention by Farrers, and unworthy of a reputable legal firm.

#### **Para 11**

*"At least one member of the Committee made the point more explicitly ...."*

This is pretty obvious, since the point would not have been noted if no-one had made it, but Farrers are trying to give the impression from a single noted point that it had widespread support and was echoed by others – which is a conclusion that cannot fairly be drawn from the minute.

#### **Para 13**

*"If (as appears to be the case) they were supportive of the idea that two parish councils should seek to arrange such a change, it was open to them to defer consideration in order to allow an opportunity to do so."*

#### **Para 17**

*"To this end we note that Willingham Parish Council has written to Over Parish Council inviting them to meet and further discuss the matter before any referral back to the Civic Affairs Committee."*

Farrers are apparently unaware of previous discussions about a boundary change. It is highly significant that the last request was made by Willingham Parish Council to SCDC in **October 2011**, and that neither that Parish Council nor client has made any representation to Over Parish Council on the issue in the five years preceding the petition that led to the Community Governance Review.

The records show that SCDC declined to conduct a boundary review on that occasion, a decision that was reported to our Parish Council in December 2011. If the boundary was really causing such a great concern and disruption to businesses on the Highgate Estate, surely their client would have raised the issue with his (i.e. Over) Parish Council. We have a 'Public Participation' slot at the start of every Parish Council meeting when parishioners can raise any matter that concerns them.

In the light of this, and of the inevitable hardening of opinion that this Boundary Review and Farrers' legal interventions have created, their suggestion that the Committee should have deferred a decision while the two Parish Councils discussed things amicably together, is absurd.

I can confirm that Over Parish Council has received a request from Willingham Parish Council for a meeting, and that we have responded to that request. I shall include the content of both letters at the end of this document.

#### **Para 24**

Farrers quote (Government) Guidance (§62)

*"The Government believes that the effectiveness and convenience of local government is best understood in the context of a local authority's ability to deliver quality services economically and efficiently ....."*

#### **Para 25**

Farrers then develop this theme, saying:

*"The current governance arrangements for the Highgate area plainly do not result in the economic and efficient delivery of services. The reality is that businesses operating from the Highgate Business Park report regular difficulties in obtaining basic services such as internet and telephone connections."*

This is seriously misleading, since neither internet nor telephone connections are provided by the local authorities, which is the subject of the Government Guidance they have quoted. It is difficult to identify **any** service provided by either the District or County Council (the local authorities) that would be affected in any significant way by a change in the boundary line.

I do not seek to dispute any inconvenience that the Highgate businesses may have experienced in dealing with telecoms companies – many others have experienced these problems too – but Farrers have based their challenge on an irrelevant source.

They continue:

*“A number of businesses have also reported that deliveries and customers are regularly misdirected by satellite navigation systems, which give directions towards the parish of Over.”*

At best this argument is confused, since entering the Highgate post code (CB24 5EU) into any satnav will take them to within 100-150m of the Estate, midway between the crossroads and the Highgate businesses. Since they clearly don't operate from a row of residential properties, it doesn't take much intelligence to travel to the end of the row of houses, where the Estate is clearly signed. In any case, many suppliers' and customers' journeys will be repeat visits to the Estate, so it would only involve an **initial** confusion.

## Para 27

*“For the reasons set out above (at §21), the Highgate area effectively serves, and is served by, Willingham Parish. However, residents and businesses within that area have no representation on Willingham Parish Council, and therefore no say in decisions that affect them.”*

Interestingly, §21 explains how strongly Willingham Parish Council already supports Highgate, as it has also shown in its various representations to the Civic Affairs Committee – even though Highgate is apparently disadvantaged by not being allowed (precisely, those people involved at Highgate who are **resident in Over** not being allowed) to vote in Willingham Parish Council elections. Just what additional representation they might derive from casting perhaps a dozen votes in Willingham rather than in Over during Parish Council elections is far from clear – it has already been confirmed that they have Willingham Parish Council's full support anyway.

## Para 30

Farrers make much of the high proportion of responses favouring moving the boundary, but 91%, 78%, 67%, etc are just the **proportions of the 3%** who actually bothered to respond. Over Parish Council has already pointed out the many inadequacies in the design and implementation of the Review, and the disadvantage suffered by those without internet skills or connections – mainly the older residents who are most likely to vote for retaining the boundaries they have known all their lives. We accept that a majority is a majority, however it is obtained, but the key issue is whether it is a fair evaluation of public opinion.

It should also be remembered that Highgate respondents were counted on their own and **also** in with the Over Parish responses. It was also unclear just who counted as a Highgate “resident” – the number voting from there appears to have exceeded the number on the electoral roll – and it seems that no cross-check was carried out with the Electoral Roll either on the eligibility of those signing the initiating petition or on those who responded to the consultation.

Geoff Twiss  
V/C Over PC  
19.11.2017

## **Correspondence between Willingham & Over Parish Councils**

### **Willingham PC to Over PC – 24.10.2017**

From: Mandy Powell (Clerk, Willingham PC)

To: Linda Poulter (Clerk, Over PC)

At the September 2017 meeting of SCDC's Civic Affairs Committee to discuss the Over/Willingham Boundary Review it was suggested that our two Parish Councils meet together to explore options for a mutually acceptable compromise boundary.

Willingham Parish Council representatives are willing to meet with Over Parish Council representatives to discuss the options for a compromise boundary which would meet the needs of all involved parties.

Please advise me whether Over Parish Council would be willing or not to enter into this discussion. If appropriate I will then contact you to discuss the meeting arrangements.

### **Over PC to Willingham PC – 15.11.2017**

From: Linda Poulter (Clerk, Over PC)

To: Mandy Powell (Clerk, Willingham PC)

Following discussions during our recent Parish Council meeting it was agreed, in principle, that Councillors would be willing to meet with Willingham Parish Council at some stage to discuss the boundary issue.

It was felt, however, that this suggestion is premature in the context of Willingham PC's challenge to the Civic Affairs Committee's recommendation and its referral back to that Committee in December to clarify the grounds on which they reached their decision. Any meeting between our Parish Councils to discuss the boundary issue cannot usefully be held until that has been done and the full SCDC Council has then considered the Civic Affairs Committee's recommendation, presumably at its next scheduled meeting on 25th January.

Our Parish Council will need to consider the matter further when the outcome of the Boundary Review is known for certain, so it would appear that a meeting in the early part of next year might be possible.

I will be in touch with you again in due course, when we can discuss issues like time, venue, format, etc. – if indeed my Council still feels that such a meeting might be helpful and/or productive.