

2 Yarmouth Road,  
Kirby Cane,  
Norfolk.  
NR35 2HQ

9<sup>th</sup> February 2016

Kirby Cane and Ellingham Parish Council.

Dear Clerk, Chair and Councillors,

Parish Land and Assets

The position of Kirby Cane and Ellingham Parish Council becomes increasingly farcical and almost untenable. Were it not for the fact that local councils have been placed above the law by the last coalition government I believe you, our present councillors, would have been disqualified from office long ago. Why, because you are failing to protect village assets which are potentially worth millions.

The Clerk and Chair made statements during a closed session of Kirby Cane and Ellingham Parish Council as follows:

*18. To consider correspondence relating to local charities: Councillors had all received copies of correspondence relating to the Ellingham United Charities and Sand & Gravel Charities. The chairman and clerk explained their consultations with the solicitor at NP Law and the advice that had been given, namely that the council did not insure the lands in question, was not registered as owning them, and did not have them on its asset register. Even if the correspondent could prove that the council had once owned them, the law of adverse possession would have long ago extinguished any rights. Also, the council could not be forced to own something it did not wish to own. The solicitor's advice was that if the correspondent wished to take the matter further they would have to apply to the High Court at their own expense for a declaration that the council owned the land, and would have to prove their case to the court's satisfaction and overcome the law of adverse possession. The solicitor's advice was to respond that the council did not own the land and would not enter into any further correspondence on the matter, and the clerk should file any further correspondence and not take any action. His opinion was that no court would criticise the council for this action. Councillors agreed that the clerk should reply to the correspondent accordingly, and add "as previously stated" and "[any correspondence] whatsoever". Councillors also approved that, subject to the outcome of the Ellingham United Charities forthcoming meeting, the clerk should*

*reply to the correspondent to re-confirm that it was not possible to make a donation to the Sand & Gravel Charity.*

**Owing to the absurdity of the above statements, I am now asking via the Freedom of Information Act 2000 for copies of the correspondence, email or otherwise, between the Clerk, Chair and the NP Law solicitor; or, copies of minutes taken, or notes made, during face to face meetings, or telephone conversations with the NP Law solicitor. Also copies of any memos, emails, or other communications between the Clerk and the Chair, other councillors. I also wish to have the reference from NP Law so that I, or my legal representative, can contact them.**

Whilst I will communicate this request via recorded delivery post, I will take the date for the start of FoI proceedings as from the date of this email.

**In commentary upon the above statements:**

*The chairman and clerk explained their consultations with the solicitor at NP Law and the advice that had been given, namely that the council did not insure the lands in question, was not registered as owning them, and did not have them on its asset register.*

This is, of course, a statement of the obvious and something that I have been raising with Kirby Cane and Ellingham Parish Council (KC&EPC) for many years. It is a dereliction of duty on the part of councillors not to protect the lands in question.

*Even if the correspondent could prove that the council had once owned them (the lands in question), the law of adverse possession would have long ago extinguished any rights.*

This statement is a complete nonsense, it would seem, particularly as it is claimed as being solicitors advice. Why?

Most recently, in around 1900, both Kirby Cane and Ellingham charity Schemes of Management were drawn up by the Charity Commissioners. Both of the schemes did **entrust, not give**, management of the lands in question to the two sets of trustees. As a protection against **mismanagement** by the trustees, the Charity Commission set up the Schemes of Management so **that both Kirby Cane Parish Council and Ellingham Parish Council would always have a majority of trustees**. It is common sense therefore that at any time it wishes to do so, KC&EPC can regain full control of all of the lands and assets that rightfully belong to the village. Also, I understand via legal advice, trustees cannot legally

use the (land thieves) excuse of adverse possession. Quite literally trustees are supposed to be trustworthy individuals, not those who would steal your land and assets.

The archives show continued parish ownership of some of these lands for centuries; all very well documented. As to the lands given at the time of the Enclosure Awards, 25 acres in all, the legal documents proving ownership by KC&EPC have all been provided. Ellingham Parish Council minutes provide evidence for its ownership of the Sand and Gravel Charity land. I would be happy to visit the Norfolk Record Office with council representatives to see the original documents.

I look forward to receiving the required information in the time scale afforded by the Freedom of Information Act 2000.

Yours sincerely,  
Rod Cooke