

Manhood Parishes Action Group – Report on Membership

Background

The group was convened by Huston and Birdham Parish councils in February 2019, initially to provide an informal mechanism for the 11 parish council on the Peninsula to discuss their individual responses to the District Council Local Plan and see if a coordinated response could be agreed. This resulted in a joint letter being sent to the local MP Gillian Keegan in May 2019, outlining specific concerns of the parishes in relation to the published Local Plan Review.

In addition we supported the follow-up letter sent to the local MP in June 2019.

On 14th June 2019, a draft constitution for the informal alliance of Parish councils was proposed (The Manhood Parishes Action Group, MPAG) in order to formalise the work of the group and legal advice on the document was provided by the Surrey & Sussex Association of Local Council (SSALC) as follows:

Comments from Trevor Leggo, SSALC, 10.06.19:

Provided all councils named agree to the terms of reference and financial commitment the Group can be established for the purpose intended. All those planning to participate should be made aware that such membership however might fetter their ability to exercise an open-minded approach at a later date.

With regard to employment and financial management it is strongly recommended that this is undertaken by one of the councils on behalf of the Group. An unusual situation all round.

Comments from Anne Bott, SSALC, 04.06.19:

I have had a look at the Constitution. There are considerable areas of risk which would need further consideration and hence why I think further advice is needed.

To give you a flavour. The Action Group is potentially taking on employment and financial responsibilities (handling public money etc, employer obligations). Who would ultimately be responsible for managing this? Will the Group carry appropriate insurance? Are the Member/Councils financially contributing? Where does ultimate liability/responsibility lie? Is the Action Group a 'man of straw' that could disappear leaving PCs individually responsible for any unforeseen consequences? Or, are the members of the action group severally and individually liable?

I note a reference to Committee, is that a subset of the Group, e.g. the Parish Councils?

Comments from Anne Bott, SSALC, 02.06.19 (before she had read the constitution):

Parish Councils are statutory bodies with the power to raise a precept to deliver services for their parish. If Councils form an Action Group, this begs the question as to how each Council, as a decision-making corporate body, could demonstrate that it is acting without bias should it be required to make any related decisions now or in the future.

I am aware that there are similar action groups elsewhere but, in my experience, this is usually formed by members of the community and will to some varying degree supported by Parish Councils.

It seems to me that your purpose would be better served by each Council formally agreeing to write to the MP. It is quite proper for a Council to express a view 'at a moment in time'. This does not preclude it from considering future related matters. It will also be more effective. Or there could be one letter that each Council could be asked to formally agree and it must also agree that it will be signed by the Chairman, if it is not the Clerk.

You refer to meetings but I am not clear if these are Council meetings or meetings of members from respective Councils and if the latter then I am assuming each council has given the necessary authority for their attendance – or has it been informal until now?

I have copied Trevor Leggo into this correspondence as I am sure he will have some thoughts and may know of other Councils engaged in challenging the Local Plan. It is certainly not uncommon in present times!!”

In addition, we submitted our own concerns and comments regarding the proposed constitution, which included, but were not limited to the following:

- The group had no legal status
- There were no defined membership criteria
- It was unclear what would constitute a quorum at a meeting
- Decision making processes were not clear
- The group were proposing holding public money in personal bank accounts
- The group was explicitly campaigning against the Local Plan, when the final document had not yet been published and so the contents could not be known
- Participation in the group risked fettering our discretion to comment on future planning applications and Local Plan documents
- Participation in the group could inadvertently undermine our own emerging neighbourhood plan

Most Recent Proposed Constitution and Legal Advice

MPAG have proposed a revised constitution, although it still fails to address many of the fundamental concerns that we raised previously (see below with Clerks comments highlighted and revised advice from SSALC). We have advised the MPAG that we will not be able to support any further work with them until our membership status has been formally resolved by the Parish Council.

Latest Advice From SSALC:

Dear Sam

Further to our chat today, I confirm that having read the advice to EWBPC I totally agree with your views.

This seems to be an unnecessary and unaccountable layer the membership of which could well fetter the Council in future discussions / negotiations with CDC.

Yours

Trevor

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From: Sam Tate <sam.tate@eastwitteringbrackleshampc.org.uk>
Sent: 14 August 2019 13:02
To: Trevor Leggo <trevor.leggo@ssalc.co.uk>; ann.bott@ssalc.co.uk
Subject: Advice on legality and risks of joining multi-parishes action group

Hi Trevor/Ann

I hope that you are both well. I'm hoping that you could offer some advice on the proposed heads of terms for a Manhood Parishes Action Group, to campaign against the Chichester District Council Local Plan. I know that you have previously offered advice directly to the action group, but I would welcome your specific advice for the Parish Council.

As the group is currently proposed I have advised the council that I think we should not sign up. I have a number of serious concerns, which I have highlighted on the attached document.

I have added group membership on to the agenda for our 12th September meeting and declined EWBPC participating or attending any further MPAG meetings until we have resolved a position on whether or not to join.

I would greatly appreciate your input on the proposal before then so that I can share your advice with the council.

Sam Tate (EWBPC Parish Clerk)

Proposed Constitution Document with Clerks Comments:

MANHOOD PARISHES ACTION GROUP (“MPAG”)– HEADS OF TERMS

1. Name

The name of the group shall be Manhood Parishes Action Group (MPAG). The group is made up of: Apuldram, Birdham, Donnington, Earnley, East Wittering and Bracklesham, Hunston, North Mundham, Selsey, Sidlesham, West Itchenor and West Wittering Parishes

General Note: I am uncomfortable with the overall concept of the Parish Councils being actively involved in establishing what was supposed to be an independent and arms-length community-led action group. Please see the guidance from SSALC on the original proposals to set up this action group. All of their concerns about the possibility of the Parish Council fettering their discretion will still apply if the we are seen to be indistinguishable from the MPAG group.

2. Aims

Critical issues have been identified with the proposed Chichester District Council Local Plan Review 2016 – 2035 which will, if not adequately addressed, have a significant adverse cumulative impact on the residents and businesses on the Manhood Peninsula. The aim of this Action Group is to ensure that these are acceptably resolved.

The Action Group believes that there should be **significantly reduced** new development on the Peninsula until adequate infrastructure is in place.

To challenge the Local Plan Review 2016 – 2035 and any subsequent iterations, the Action Group would undertake activities, including but not necessarily limited to:

1. Continuing to lobby the MP, Gillian Keegan as regularly as possible.
2. Fund raising, including crowd-funding at the appropriate juncture and thereafter consider employing professional advisors and/or representation to advise on the grounds on which to challenge the content within the Local Plan Review
3. Additionally, consider instructing a barrister to represent the Group when the Plan goes to the Government Inspector
4. Launch and maintain a media campaign
5. Identify and contact potential allies in the campaign
6. Lobby MP and others with influence including Government Ministers

Again, we could fall foul of predisposition and fettering our discretion rules, as the aims are already quite explicitly geared up to oppose the Local Plan – given that it has not yet been completed and we have not had sight of the revised document this would be a very risky strategy to adopt.

3. Structure

MPAG has no formal legal structure.

Each person and/or member attending has the ability to chair any meeting, attend any sub meetings or become the author of any agreed documentation required as part of MPAG achieving its aims.

This Heads of Terms can only be altered with the agreement of every parish who signs up to the Heads of Terms.

This is very concerning – if the group has no legal structure, how can it claim to have any authority or to speak for the communities it purports to represent? It would also potentially leave individual group members open to liability claims for actions taken by the group that were detrimental or unlawful (and perhaps by extension the Parish Council).

The lack of a formal structure is also a problem given the non-specific membership criteria – if a particular Parish loaded a meeting with members or activists, could they steer the position of the whole group to support very specific (and not necessarily mutually held) aims and objectives? This is far too open to abuse and hijacking by well organised or single-issue activist groups.

4. Holding Funds on behalf of MPAG

The Action Group shall, at the relevant time, consider appointing an individual parish to hold ring fenced funds in their parish council bank account on behalf of MPAG. Any funds held will be recorded with each contribution from any parish and/or member of the public to remain the property of the parish and/or member of the public. Surplus funds from any contributions will be returned to the contributing parishes.

Aside from the legalities of the Parish Council ever being able to support such an arrangement of funding a body with no legal status, there is huge potential for splits and rival factions to appropriate funds. There is no detail around how decisions to spend funds will be taken, so what happens if the council holding the funds does not agree with a funding decision of the wider group – how can they be compelled to make the necessary resolution to spend from an Ear Marked Reserve?

5. Membership & voting

Each Parish will appoint a designated person to attend MPAG meetings. It is the responsibility of each parish to ensure a representative is in attendance.

All questions at any meeting shall be decided by a simple majority of the parishes attending.

This is deeply concerning. What if a meeting is called at short notice, only one person turns up and a decision is then made on a major policy point or to spend funds? As an absolute minimum a full terms of reference document need to be drawn up which pins down all of the questions over parish representation, frequency of meetings, who can call meetings, voting

rights, what constitutes a quorum for decision making, and what powers the group has to make decisions and spend money.

We absolutely cannot sign up to this document in its present form. I would further add that I be reluctant to sign up to it at any point in the future, given the revised guidance from SSALC.

My preferred option would be to encourage the many community groups (e.g. Manhope, Campaign Against Over Development in Selsey, Donnington Action Group, etc.) to coordinate their efforts and lead the charge on this – they can always apply to their individual Parish Councils for grant funding or support, but it gives the necessary distance for the Parish Council not to be too heavily involved in opposing the Local Plan at this stage, which could leave us at risk of a legal challenge from developers later on in the process.

We need to be careful that by joining and supporting this group we do not explicitly campaign against our own neighbourhood plan, which is still in process, inadvertently undermining ourselves when it reaches inspection and examination.

6. Emails

The delegated representatives will receive emails on behalf of MPAG and be responsible for forwarding these to an alternative person from their parish in the event of absence or inability to participate.

Social media proposals (posts / tweets / photographs) will be forwarded to the nominated representatives in addition to parish clerks, so the detail can be put onto individual council's marketing and/or leafleting and/or websites to promote further awareness.

We can't agree to this – the Clerk should receive all correspondence to the council and then disseminate to the appropriate members. MPAG social media posts could well be in breach of the council's social media policy, so we cannot commit to blindly promote and share them via our own comms channels.

Recommendation

That we should not sign up to the proposed constitution of the MPAG or agree to join. We should request that minutes of the meetings be sent to us for reference, as this will then give us the flexibility to send supporting letters when their campaign objectives align with the Parish Council, which can be decided by the Council on a case by case basis.