



TOSTOCK CHRONICLE

233

APRIL - MAY 1999

PARISH COUNCIL



Mr.A.Villar chaired the recent meeting which was attended by 7 councillors, the District Councillor Mr.B.Siffleet and two residents. An officer from the Suffolk Wildlife Trust also came to the meeting to explain the pros and cons of working with them regarding the maintenance of The Leys and Pond. Various forms of assistance might be available and the work would carry on much the same as in the past. All the councillors felt this was a good scheme and have entered into a ten year contract with the Trust.

Details regarding the recent High Court Proceeding over the Rookery Meade Pig Farm Nuisance are printed in full. Residents are requested to continue to log when the smell occurs and also to telephone the Freephone Number 0800 317650 with complaints as the situation is still being carefully watched until May 2000.

The new Parish Liaison Officer for Tostock is P.C.Mick Spencer who can be contacted on 242655 This village is now under the control of the Elmswell Police Station tel: 240211. Councillors have expressed concern regarding the bad state of the roads through the village and the Highways Department have been written to requesting some repairs should be carried out.

The ANNUAL PARISH MEETING will be held in the VILLAGE HALL on TUESDAY 25th MAY AT 7-45pm.

The County Councillor and District Councillor will be present as well as the Parish Liaison Officer and the Neighbourhood Watch Village Co-ordinator. The usual officers reports will also be given.

THE COUNCILLORS LOOK FORWARD TO SEEING YOU AT THE MEETING

MID SUFFOLK DISTRICT COUNCIL

ENVIRONMENTAL HEALTH COMMITTEE - 18 MARCH 1999

ROOKERY FARM, DRINKSTONE

HIGH COURT PROCEEDINGS 1 - 5 MARCH 1999

Contact Officer: Peter Hill, Head of Environmental Health (01449) 727384

1. Summary/Main Issues

- 1.1 On Friday, 5 March, after five days of hearing in Norwich High Court, an Order was made incorporating an undertaking by Mr John Clarke, preventing him from causing a public nuisance from his pig keeping operations at Rookery Farm, Drinkstone, after 31 May 2000.
- 1.2 A secondary Court Order required Mr Clarke to *"use his best endeavours during the adjournment of this action to agree with the Plaintiff:*
 - i) *a complete schedule of works to be carried out and completed before 31 May 2000,*
 - ii) *a programme for the implementation of those works before 31 May 2000,*
 - iii) *an interim farm and odour management plan to cover the period up to 31 May 2000, and*
 - iv) *a long term farm and odour management plan from 31 May 2000."*
- 1.3 A further hearing is to be convened for 19 April in order to allow Mr Clarke to give undertakings relating to those items in 2. above.
- 1.4 Liability for costs in the case, if they cannot be agreed before 19 April, will be settled on that date.

2. Recommendations

- 2.1 Members are asked to note the contents of this report and confirm the decisions taken by Officers and Members in relation to the final outcome, and
- 2.2 To endorse the "fast track" decision making mechanism in relation to costs negotiations outlined in paragraphs 3.3.3 and 3.3.4 of the main report.

3. Background

It seems appropriate that at the last meeting of the Council's Environmental Health Committee, Officers should be able to report on a Court decision which represents a major advance in the resolution of a problem which had dogged these agenda for twenty-five years. Whilst not bringing an immediate end to the nuisance, it puts in place powerful machinery which can enable local residents to look forward to a final cessation within a defined timescale, and with renewed confidence for the future.

3.1 The Proceedings

- 3.1.1 Members will recall that at its meeting of 21 January, this Committee reaffirmed the Council's resolution to take injunction proceedings under the provisions of Section 222 of the Local Government Act 1972, for the prevention of a public nuisance from Mr Clarke's swill feeding piggery at Rookery Farm, Drinkstone.
- 3.1.2 Thus it was, that following months of detailed preparation by the staff of the Environment Control Section and the Council's Legal Team, the hearing commenced in the High Court, Norwich, on 1 March 1999, before Judge David Mellor, QC.
- 3.1.3 The Council's legal representation comprised Mr Gregory Stone, QC, supported by his Junior, Mr Richard Humphreys: the Barrister who had successfully defended against Mr Clarke's Appeal against the original Abatement Notice in 1993. Both were supported in Court by Mr Nigel Farthing of Birketts, the Solicitor who has acted for the Council throughout the current proceedings. Mr Clarke chose to represent himself and received sporadic support from his own Solicitor.
- 3.1.4 Also present throughout the proceedings were the Council's Agricultural Consultant, Dr Peter Sharpe and an Engineering and Odour Control Consultant from Aspinwalls, Stephen Rintoul.
- 3.1.5 In his opening address, Mr Stone skilfully outlined the Council's case at length for the benefit of the Judge, drawing his attention in particular to the pre-trial negotiations and how nearly they had come to arriving at agreement: foundering only on the question of costs.
- 3.1.6 Mr Clarke's response was to make submission to the Judge that the Council's case should be dismissed due to a defect in the original resolution of December 1992; namely that it was not certain from the wording of the resolution that the Council were resolving action for public nuisance and that therefore the current action had not been properly considered by the Council.
- 3.1.7 Pending the Judge's ruling on this point, the trial continued with local residents being called to give evidence as to how the uncertain occurrence of the smell and its disgusting nature had affected the quality of their lives for many years. As each witness entered the witness box, the Court was shown a picture of their home and its location on a map of the area.
- 3.1.8 Out of the original 21 lay witnesses lined up to give evidence, some 18 were eventually called, and all provided sound and unequivocal details of ruined barbeques, curtailed enjoyment of gardens, the smell trapped inside houses and soft furnishings, endangered weddings, the necessity for relaundering washing and numerous other incidents of "life beneath the smell".
- 3.1.9 On the Tuesday afternoon, the Judge and the Council's team visited and toured the site of Rookery Farm and subsequently the Judge took the opportunity to visit surrounding villages.

- 3.1.10 On the Wednesday morning, the Judge ruled against Mr Clarke's earlier submission, noted how close the two parties had already been to an agreement and drew attention to the mounting costs of the proceedings. His remarks almost immediately brought about an offer of an undertaking to the Court from Mr Clarke, accompanied by an offer of contribution towards the Council's costs.
- 3.1.11 It was generally agreed that both were unacceptable. However, there were elements within the offer of an undertaking which might prove to be a basis for further agreement.
- 3.1.12 At no time was the Council's determination to arrive at an unconditional undertaking in danger of compromise.
- 3.1.13 Throughout Wednesday and into Thursday morning the lay witnesses continued to give their evidence and most were cross-examined with varying degrees of persistence by Mr Clarke who was conducting his case from his wheelchair.
- 3.1.14 Towards the end of Thursday morning, the first of the professional witnesses, the Head of Environmental Health was called to the stand and in an effort to save the Court's time, was permitted to read his lengthy statement in its entirety, whilst answering occasional questions upon its content from Mr Stone.
- 3.1.15 During the course of giving evidence and during subsequent cross-examination, the Court was presented with evidence of nuisance, both historical and more recent, alleged anomalies in correspondence over years of communication, and accusations of lack of help and consideration for Mr Clarke's situation from the Council.
- 3.1.16 The examination lasted until the end of the day at which time the Council still intended to call a further three Environmental Health Officers, two Consultants, two more lay witnesses and the Head of Planning Control.
- 3.1.17 On the Friday morning another offer of undertaking was received from Mr Clarke's Solicitor. After redrafting, renegotiation and referral to the Chief Executive and the team of Members set up to be consulted in just such a situation, the draft Order (Appendix 1) was placed before the Judge during the early afternoon and the appropriate undertakings were given to the Court by Mr Clarke.
- 3.1.18 A further hearing was arranged before Judge Mellor on 19 April at which the outstanding parts of the Undertaking (see 3.2 below) could be confirmed and, in the event of no agreement being reached on costs, a decision be taken by the Court.

3.2 The Undertakings (Appendix 1)

- 3.2.1 The undertakings although both contained within the same document, are both completely separate and do not prejudice each other in terms of content or enforcement.
- 3.2.2 The first ("The Principal Undertaking") places an unequivocal and unconditional obligation, which is in force immediately, upon Mr Clarke to cease causing a public nuisance from Rookery Farm by 31 May in the year 2000; some 14½ months away.

- 3.2.3 Although a slightly longer timescale than perhaps originally envisaged, we were advised that it was unlikely that in the event of an Injunction being granted by the Court, the time for Mr Clarke's compliance would be substantially less.
- 3.2.4 The major advantage of the Undertaking as opposed to Injunction however, is that there is no opportunity for appeal which could further delay the issue.
- 3.2.5 Members should be aware that there is no distinction between a Granted Injunction and an Undertaking to the Court such as that given by Mr Clarke. Non-compliance with either carries the same penalties and constitutes a contempt of Court.
- 3.2.6 The second Undertaking contained within the Order is designed to ensure a more immediate improvement in the situation for local neighbourhoods and to prevent a situation where the time for compliance merely represents a period of further production and profit.
- 3.2.7 It imposes requirements on the implementation of improvement works and it requires that before the next Court hearing now arranged for 19 April, Mr Clarke and the Council, acting via their respective Consultants, will agree:
- i) *"a complete schedule of works to be carried out and completed before 31 May 2000"*. Members will be aware that in relation to the cooking plant at least, a similar condition attached to a recent planning approval.
 - ii) *"a programme for the implementation of those works before 31 May 2000."* This will provide a mandatory time framework with which Mr Clarke will have to comply, or risk immediate revival of High Court proceedings.
 - iii) *"an interim farm and odour management plan (to cover the period up to 31 May 2000)."* This clause represents an additional form of protection for local residents and provides prescribed management arrangements which can be "policed" and, when appropriate, enforced during the period up to 31 May 2000, and
 - iv) *"a long term farm and odour management plan from 31 May 2000,"* effectively takes those arrangements beyond the compliance date and will apply to the farm thereon.
- 3.2.8 Both parties Consultants having met during the run up to the trial, it was acknowledged that there was considerable agreement on what needs to be done on the farm and what is proposed. In the event, however, of no final agreement being arrived at prior to 19 April, the final part of the Order makes plain the Council's intention to invite the Judge to make appropriate Orders.
- 3.2.9 It is important to reiterate that both parts of the Order stand alone and that the validity of the first (the Principal Undertaking) is not compromised by Mr Clarke's compliance with the second. In other words, if there is still a smell from Rookery Farm which gives rise to a public nuisance after 31 May 2000, then Mr Clarke is in breach of the Order and liable to the penalties which can ensue.

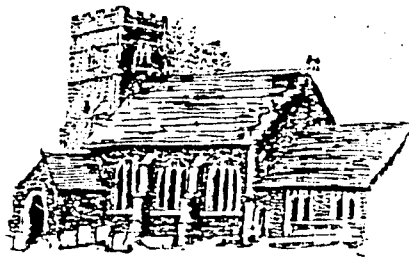
3.3 Costs

- 3.3.1 The period between 5 March (the date of the end of the trial and 19 April) allows work to progress between the two parties on the Secondary Injunction. During that time however, Mr Clarke has asked for the Council to quantify its costs in relation to the case in order that he may be in a position to make a formal offer of reparation.
- 3.3.2 Our Solicitor, Mr Farthing, will be drawing up a bill of costs for service upon Mr Clarke's Solicitors. However, once again in the event of no agreement being forthcoming the matter will be placed before the Court on the 19 April.
- 3.3.3 It may be necessary for the Council to take a decision upon a offer of costs during the interim period until 19 April. Whilst any response would not require to be dealt with quite the urgency of decision during the Court hearing, it would obviously not fall within the current Committee cycle. It would, therefore, be sensible to extend those arrangements which were put in place, ie. giving the remit for such a decision to the Chief Executive in consultation with selected Members, at the last Environmental Health Committee. I understand that the Members concerned are aware of this situation and happy with it.
- 3.3.4 Furthermore it is suggested that this delegation be extended until the end of June, by which time the new Environment Committee will have come into being, in the event of any decision being necessary beyond 19 April.

4. Conclusion

- 4.1 The outcome of the trial can only be seen as highly successful for Mid Suffolk District Council. The Undertakings given, by their nature and content, can, and should, be seen as a major breakthrough in this protracted saga which provides local residents with a much clearer view of an end in sight.
- 4.2 The final result arose largely from the voiced feelings of the residents of Woolpit, Tostock and Drinkstone. However, it was also due to the exceptional work of the Legal Team: Barristers Greg Stone, QC and Richard Humphreys, and Solicitor, Nigel Farthing, who ensured that the Council were excellently represented.
- 4.3 It was also an exceptional example of team work on the part of your Environmental Control Section. The amount of preparatory work for a case which has spanned twenty five years, and was intended to last ten days in the High Court, has been phenomenal in terms of information gathering, collation, research and organisation. Its demands upon the resources of this five person team could have led to serious dereliction in other aspects of their work. This has not happened and whilst all have shown superb dedication, commitment and sheer staying power, the Principal Environmental Health Officer, John Grayling, deserves special mention for his sustained levels of professionalism and expertise.

PETER HILL
Head of Environmental Health



ST ANDREW'S CHURCH
CHURCH SERVICES FOR APRIL AND MAY

4th April	10.30 a.m.	Easter Day Communion
11th April	11.00 a.m. 6.30 p.m.	Family Service Open Door Informal Service at <u>Pakenham</u>
18th April	9.30 a.m.	Holy Communion [B.C.P.]
25th April	9.30 a.m.	Morning Prayer [B.C.P.]
2nd May	9.30 a.m.	Joint Benefice Communion at <u>Norton</u>
9th May	11.00 a.m. 6.30 p.m.	Family Service Open Door Informal Service at Pakenham
16th May	9.30 a.m.	Holy Communion [B.C.P.]
23rd May	9.30 a.m.	Morning Praise
30th May	9.30 a.m.	Morning Prayer [B.C.P.]

We celebrate the joy of the resurrection of Jesus at an Easter Day Communion Service - we welcome you to join us at this service.

Meeting Point - A group of people have expressed an interest in meeting together once a month to discuss some of the moral and ethical issues facing our world today. The first of these meetings will take place on Tuesday, 11th May at the home of Julia and Barney Harrison commencing at 7.30 p.m. On that evening we will consider "Human Rights". If you wish to join us you would be most welcome. It would be helpful if you could let Barney or Julie know in advance if you would like to come.

Ian Hooper
Rector



BELLS RESTORATION APPEAL



The four bells left the Church on Tuesday 10th February and went on their journey to Eayre and Smith at Derby. It was a bitterly cold, snowy morning and Mr. Baines was delayed by icy roads and cars in ditches!! The small group of parishioners who had gathered in the cold to record the historic event were unable to wait for long, but we saw each bell brought through the west door and wheeled away down the path. All went smoothly until it was the turn of the biggest bell - the tenor - which finally had to be tipped up slightly to get out through the doorway - not an easy manoeuvre for two people to manage. The Bury Free Press sent a photographer and a photograph was published of Tony Baines and his son Kevin pushing the St. Mary bell along the path. The Bell-ringers are making good progress at St. Marys Rougham (some are more expert than others!) but we are now ringing 'Rounds' and 'Changes'. More Ringers would be very welcome - Maurice and Elizabeth are very patient teachers. Several of us had never rung a bell at all until last September, so don't worry if you're a beginner. Come and join us on Mondays at 8 pm! The Appeal Committee has approached the Diocesan Advisory Committee for their approval to build a Ringing Floor in the Church Tower, with a stair for access within the Church. This would enable the Ringers to have more space than if they were standing on the belfry floor, and they could also be seen from the Nave. John Pamment has designed the stair and floor for us to fit in with the decorative features of the building. The D.A.C. is due to visit us to examine the proposal on 31st March, but we have to seek permission from various bodies including English Heritage. In research for the new Church Guide, an account of the Church in 1827 was discovered, stating that 'Over the arch at the West End are the Kings Arms, and under them a small gallery for the singers' which probably looked something like the proposed design to-day. Two further grants have been sought so far to help with the additional costs, approximately £2,000. The Bells Appeal Fund is very much "OPEN" and any donations would be very gratefully received.

THE CHURCH COUNCIL WANTS TO HEAR YOUR
VIEWS ON OUR RESPONSE TO THE MILLENNIUM.
WE HOPE TO ORGANISE AN OPEN AIR "SONGS
OF PRAISE". PERHAPS FOLLOWED BY A
BAR-B-QUE DURING THE SUMMER 2000.
COME AND JOIN OUR DISCUSSION ON
22nd APRIL at 7-30p.m. IN THE CHURCH

CHURCH SOCIAL COMMITTEE

A Coffee Morning will be held in the Village Hall starting at 10-30am on TUESDAY 27th APRIL.

The next VILLAGE LUNCH will be on TUESDAY 18th MAY at 12-30pm in the Village Hall.

WE HOPE TO WELCOME AS MANY OF YOU AS POSSIBLE AT BOTH THESE EVENTS.



— TOSTOCK DRAMA CLUB. —

We were encouraged by the good turnout for the meeting in the Village Hall on Sunday 7th March. We carried out a warm-up exercises, and after a cup of tea, moved on to the plays themselves, having read - throughs of two plays, a melodrama entitled "The Tram Track Tragedy" with the adults, and Alan Ayckbourn's "Ernie's Incredible Illucinations" with the younger ones. I think everybody enjoyed the plays, but we have one sizeable problem at the moment , which is 'Where are all the boys ?' There were only two boys for the junior play; we need more! Persuade your friends to come along to the next meeting, which is on **SUNDAY, April 11th in the Village Hall, at 3pm**, where we might be able to start casting, and hopefully we will produce a rehearsal schedule giving details of future meetings and rehearsals.

Hope to see you on 11th April,

Nick & Gail

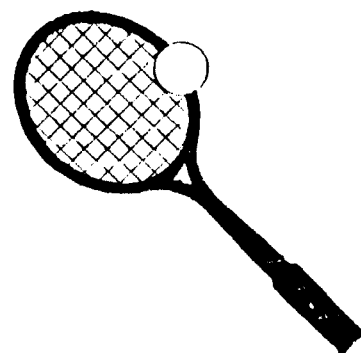
NICK & GAIL Moyle

TOSTOCK TENNIS CLUB

Subscriptions for 1999/2000 due on 1 April. Contact Elizabeth Dunn, Membership Secretary/Treasurer, on 01359 270270 to arrange payment of subs which are £12 adults, £6 students, £5 children under 16, family membership £25 and guest court fees £1 for children, £2 adults.

The booking rota for April through to September is

-	April	Diane Plester	271652
-	May	Ann Pillars	270303
-	June	Elizabeth Dunn	270270
-	July	Diane Plester	271652
-	August	Heather Spencer	270395
-	September	Margaret Grooms	270688



Tostock Tennis Club Committee 1999/2000 is: -

-	Chairman	Heather Spencer	270395
-	Membership Secretary/Treasurer	Elizabeth Dunn	270270
-	Secretary	Diane Plester	271652



John Walker has now taken over as Village Co-ordinator. He and the other co-ordinators would like to thank Mrs.C.Jull for volunteering to be the new co-ordinator for The Green.

The present officers are:-

Mr.J.Walker	Village Co-ordinator	271609
Mr.K.Bucke	Leys Road Area	270591
Mr.A.Crosby Browne	Flatts Lane Area	270579
Mr.B.Jagger	Flatts Lane Area	270613
Mr.P.Hayman	Norton Road Area	270360
Mrs.C.Jull	The Green Area	270670
Mr.R.Putt	Church Road Area	270439
Col.P.Dean	New Road Area	270511

It is felt that an additional co-ordinator for each area is desirable to act as a deputy for holiday relief. If anyone is interested in this honourable position please contact any of the above for further information. It is also proposed that from now on any up-dated details or news will be reported in the Tostock Chronicle.

A REMINDER PLEASE DO LOCK YOUR GARAGE AND SHED DOORS. LAWN MOWERS, STRIMMERS, HEDGE CUTTERS AND ANY GARDEN TOOLS ARE VERY DESIRABLE TO THE OPPORTUNIST THIEF.

GENTLE YOGA & RELAXATION

WEEKLY CLASSES COMMENCE

WEDNESDAY 14th APRIL 1999. 10.00am-12.00pm

AT TOSTOCK VILLAGE HALL

FOR FURTHER INFORMATION AND ENROLMENT

PHONE: YVONNE JONES ON 01359 241953

OR

JOAN SHAW ON 01359 271103

Tostock Past and Present Society

At the Annual General Meeting on 1st February, the following Committee were re-elected - Chairman : Mrs. Jeanne O'Reilly, Treasurer : Mr. John Barker, Secretary : Heather Spencer, Speakers' Secretary : Mrs. Pauline Copeland and Mr. and Mrs. David Livingston and Mr. Douglas Copeland.

The next monthly meeting will be held on Monday, 12th April at 8 p.m. when the subject of the talk will be the HISTORY OF SHOES by Dudley Mason and the following month we have a return visit by Les Jacobs (ex Chief Inspector - Police, Martlesham) speaking on THE SUFFOLK PARISH CONSTABLE on Monday, 10th May at 8 p.m.

Clive Paine's lectures continue on Tuesday, 13th April at 7.30 p.m. with RIOT & ARSON IN BURY ST. EDMUNDS in 1840's and on Tuesday, 4th May at 7.30 p.m. with MAHARAJAH DULEEP SINGH & THE ELVEDEN CONNECTION.

Clive Paine's lecture on JOHN DONNE & THE DRURY FAMILY will be re-arranged later in May. This had to be postponed because of the illness and death of Clive's wife in March. An outing will also be arranged to visit Hawstead Church in May.

DR COCKAYNE RETIRES

AFTER 33 YEARS IN PRACTICE

AT WOOLPIT

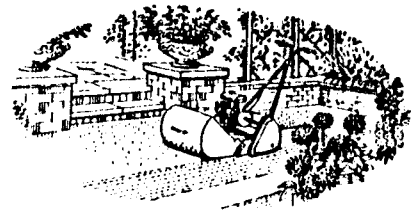
ON

31ST MARCH 1999

**ALL HIS PATIENTS WILL BE TRANSFERRED
AUTOMATICALLY TO HIS SUCCESSOR WHEN
HE IS APPOINTED AT THE BEGINNING OF APRIL**

TOSTOCK GARDEN CLUB

PROGRAMME FOR 1999



20 April Tuesday An illustrated talk on 'House Plants'. Speaker Mr B. Gayton

22 May Saturday Visit to Anglesey Abbey Gardens. This is a joint visit with Rattlesden Garden Club. Cost £9 for members including coach and entrance to garden. Non members £10. National Trust members may have a reduction of £3 but must bring their cards. An application form will be circulated.

9 June Wednesday. Evening visit to 'Nunns Yard' Walsham le Willows to see a country garden being restored from a wilderness. Members meet at at Tostock Village Hall at 7pm and to travel in as few a cars as possible!

24 July Saturday. All day visit to Chartwell, Kent. This is another joint visit with Rattlesden Garden Club leaving Woolpit at about 8pm, stopping at Westerham, Kent where there will be a guided tour of this historic town followed by a light lunch. The National Trust gardens at Chartwell will be seen in the afternoon. The cost to include coach, light lunch and entrance to the gardens will be £13 for members and £14 for non members. (£2.75 reduction for National Trust members with cards)

31 July Saturday. Tostock Annual Flower and Vegetable Show! Please note that this is earlier than usual which should give everyone the opportunity to display more flowers and soft fruit.

7 Sept Tuesday. Visit to a local nursery. An early evening start will be necessary. Details to follow.

24 Nov. Wednesday. Lecture to be arranged.

All talks at Tostock Village Hall. at 7-30 pm

Please bring a friend! We need your support!

