

Minutes of Meeting – Pow Drainage Commission Heritors Meeting

PRESENT:

Heritors:
Wing Commander Roberts, Mr A Hale, Dr and Mrs W Dove, Mr D Cameron, Mr H Gillon, Mr J Mackenzie, Mr S Chouman, Mr D Clark, Mr J Virtue, Mr and Mrs Mackie

Commisioners:
Hugh Grierson (HG), Jo Guest (JG), James England (JE), Mrs E Roberts (ER), Gary Buckingham (GB)

Also present as Clerks to the Commission
Jonathan Willett (JW), Charles Arden (CA), Alexa Mewse (AM)

DATE OF MEETING: 31st October 2019, 19:00

VENUE: Newmiln Farm, Tibbermore

Item	Notes
1	Apologies for Absence received Mr and Mrs Craig, Mr C Connell, Mr A MacKenzie Smith, Mr and Mrs Miller
2	Minutes of Last Meeting
2.1	The minutes from the meeting held in July 2019 were distributed amongst Heritors prior the meeting commencing.
3	Matters arising from Minutes
3.1	There were no points raised regarding the minutes from the meeting held in July 2019.
4	Clerks Report
4.1	JW welcomed everyone to the meeting and introduced CA and AM from Savills. JW gave an update regarding the current position following the 2019 Bill being enacted. JW explained the changes to the assessments whilst referring to the draft budget which has been made available to heritors.
4.2	HG confirmed they received 3 quotes for the Clerking role for the Commission. Following a discussion by the Commission it was felt that the Savills tender would be the most suitable given their experience with the Pow and fee structure provided.
4.3	JW discussed Clerks role and how this would be conducted, he also confirmed that the required notices had been sent out timeously and that the draft budget and notices had been produced using information from McCash and Hunter. JW noted that the expectation from the newly appointed Clerks would be to send as much communication as is practical via email. JW asked the meeting if this was accepted to be the most suitable form of communication with the general consensus being in agreement.

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4.4	A question from the floor observed that the website should be active by now and that would be the most practical way to communicate? JW confirmed that the website was in hand and allowed CA to explain the progress made so far.
4.5	CA gave an update on the website planning, from which 4 quotes have been received. Information on the quotes was then sent to the Commissioners who decided to appoint LightPress Design to prepare a website. CA confirmed that the running costs for the website provider were higher than estimated in the draft budget (£500.00) at £650.00 for the first year with an annual running cost thereafter of £120.00.
4.6	CA noted that a meeting had been set up with LightPress Design to meet with the Clerk on Tuesday 5th November at Savills Perth office. CA anticipated good progress to be made from that meeting.
4.7	A question from the floor was noted regarding recent changes to GDPR regulations and how information would be held and viewed on the website. JG confirmed that the Act made it clear that names and addresses of heritors must be shown. There was some discussion regarding using only email addresses and addresses only and further clarification will be sought.
4.8	A question was also asked regarding the website domain name and JW confirmed that www.powofinchaffraydrainagecommission.co.uk or www.powofinchaffraydrainagecommission.com were both available and this was considered reasonable. It was discussed that as the Pow is not a limited company would using .org.uk be more suitable? It was agreed that .org.uk will be used.
4.9	JW continued to outline how the Heritors and Commissioners lists will allow the Clerks to streamline correspondence and communication. Even more so once the website is up and running.
5	Draft Budget
5.1	HG noted that Savills were no longer instructed for surveying for annual maintenance of the Pow.
5.2	Question from the floor regarding the use of drones to survey the Pow and could this be considered to make Pow walks easier to complete. The Clerks agreed to research this further.
5.3	Questions submitted via previous email from Dr W T Dove responded to from HG who was able to confirm that the costs have more or less doubled for this next assessment year. The increased amount will stay the same for the 2 years following due to the costs incurred to take the new Act through Parliament. After 3 years the Commission expect fees to be reduced. Heritors questioned the sum of £4557 on the budget, JG responded and confirmed that this is one third of the refund to heritors who paid in advance to aid getting the bill passed. HG who confirmed that payments would be limited for the foreseeable to clear debts in response to Dr Dove's final question.
5.4	Question regarding the zero amount noted in the draft budget against Beavers and why this was? HG confirmed that for now there is no allowance made for this but most will be aware that this will be an incurred cost in future. HG expects to see reduced fees for legal and drainage in future.
5.5	Question regarding VAT written in the draft budget and was this included or not? JW confirmed that the vast majority of payments include VAT but could not give exact figures. The Pow is VAT registered.
5.6	HG put it to the floor if the group would prefer to see the budgets showing VAT or net and it was agreed after discussion to show VAT in future.
6&7	Financial Position and Promotion Costs
6.1	

Item	Notes
6.2	JW spoke about the fees involved from Savills tender and confirmed that the costs associated in the budget were for the first year and thereafter are capped at £7500. The client accounting fee from Savills is included within the fee scale.
6.3	JW mentioned that works continues to secure a new bank account and HG is dealing with this.
6.4	Question relating to expected legal fees from McCash and Hunter and are they expected to reduce. JW confirmed that this is expected as McCash and Hunter's involvement is reducing.
6.5	Question regarding the budget and the 3 year forecast as some heritors are mistrustful of this so why forecast so far in advance? HG confirmed that when the Commissioners start the budgeting process they look at what works will be required and try to in reverse. JG advised that if the timeline is shorter the forecast becomes more inaccurate. The Pow inspection is done in spring after the winter floods so it can be difficult to predict what damage will occur in the winter months. JG confirmed that once the budget is billed there are no further amendments made. HG added that they can reserve funds from payments for identified works.
6.6	Question regarding the budget and where the fees from Savills, where is this spent and where was it spent previously? HG suggested that with clearer communication between the Clerk and the Commissioners this should be more effective and once the website is live this information can be accessed easily.
6.7	JW noted that McCash and Hunter are stepping back from the Pow. This was received well within the meeting.
6.8	HG confirmed that Fiona McNaughton at McCash and Hunter has been asked to prepare final table of costs and this was expected to be approximately £125,000 outstanding. This was apportioned in the following way; fees to date £49,500, VAT £10,500, outlays £15,000, outstanding fees £49,000 outstanding outlays £19,000. HG noted that McCash and Hunter have reduced their fees and written off some fees as had Anderson Strathern who has also exceeded their capped limit. The outstanding fees from the recent parliamentary act was expected to be approximately £9,000. Savills fee is approx £29,000 which has been reduced and the meeting expressed their appreciation of this.
6.9	HG accepted that fees are higher than initially forecast but some unforeseen costs have been attributed to mapping and adhering to GDPR regulations. It was also noted that costs had been increased due to requirements for checking submissions which was unexpected.
	JW confirmed that McCash and Hunter would be contacted to give a current financial position and this will be included in the minutes to be circulated at a later date.
8	Condition of the Pow
8.1	It was noted that there is evidence of subsidence at Dollerie and a large area of damage from beavers at the same location. JG confirmed there were some 60 trees down in that area due to beavers.
8.2	JG noted that Scottish National Heritage were being followed up to provide a licence as part of an ongoing management programme but this was not forthcoming. There was further discussion relating to the fact that SNH seem reluctant to see the Pow as one area requiring one licence and prefer to issue separate licences to individual land owners. JG and JW have met with Ben Ross at SNH to discuss this but no ground has been made yet. HG mentioned that he is aware of such licences being granted but not locally.
8.3	Question asking if beavers can be moved and managed to alleviate damage by individuals who obtain a licence as there was a case recently where beavers had been trapped on the Pow banks.

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8.4	<p>HG was in agreement that individuals can apply for licences and would remind individuals to keep the beavers out of the water course to reduce damage in long term.</p> <p>Further discussion within the meeting regarding forming a type of co operative group whereby all licence holders group together to work with others to manage as much area covered as allowed under licence. This was agreed to be a strong idea in practice and this would be discussed in more depth.</p>
8.5	<p>HG advised that at Gorthy March he had tried to remove a beaver dam and this had proved very challenging. Some concerns were noted within the meeting of water levels and was the Commission responsible for removing dams. HG confirmed this was the case but plant hire is costly to be used in individual cases and that although removal of larger areas would be beneficial it was also difficult.</p>
8.6	<p>JW spoke about beaver barriers as he is aware that there are such items being used in the local area but they are expensive.</p>
9	Any other Business
9.1	<p>Question from the meeting regarding debtors payments in that what is to stop other heritors from not paying their share. JW confirmed that the new clerks would be enforcing a schedule of issuing the demand letter, following this up after a 1 month period with a reminder letter and should funds not be forthcoming legal action will be started to recover payments.</p>
9.2	<p>JW confirmed that McCash and Hunter would be engaged to recover outstanding debtors and they would charge on an hourly basis for this work. The meeting were not entirely supportive of McCash and Hunter's continuing involvement and JW reiterated that if heritors put forward another firm of solicitors the Commission would certainly consider this.</p>
9.3	<p>A further question from the meeting asking if bad debtors are liable to pay the costs involved for pursuing said debt? JW confirmed that this was true as section 21 in the new Act stated 'that an amount is due and payable to the Commission under this Act may be sued for and recovered from the person liable to pay it as a debt due to the Commission, by proceedings in the Sherriff Court'.</p>
9.4	<p>It was further discussed in the meeting that wording within the demand correspondence should be clear and frank to confirm that payment is expected and that unpaid fees will be pursued.</p>
9.5	<p>JW requested the meeting to vote on the budget out with the VAT amendments that had been requested during the meeting. The vote was carried unanimously.</p>
9.6	<p>HG will request bank account updated and give an overall cash balance in due course.</p>
10	Date for next meeting
10.1	<p>30th April 2020, 19:00</p> <p>Newmiln Farm, Tibbermore, Perth, PH1 1QN</p>