

Delegation of management of the Commons to the Land Management Company.

At the Parish Council meeting on 4th November 2024, it was asserted that there was nothing in the Minutes of the Parish Council, going back to 2012, which delegated any responsibility for the management of the Commons to the Land Management Company.

A Parish Councillor at the meeting pointed out that there HAD been a discussion of this issue a few years previously that had resulted in a formal decision to delegate authority for the management of the Commons from the Parish Council to the Land Management Company. The precise date and Minute could not be quoted at that point by the Parish Councillor. It was then asserted that while the Minute referred to did exist, it was not valid, since there had not been a vote.

Subsequent to the meeting, the Parish Councillor identified the Minute, dated 1st February 2021, which reads as follows:

8. Authority of the Land Management Company.

The Parish Council noted that the County/District Councils were the guardians of the Ilketshall St. Andrew & St. John Commons. It further noted that, not least as a consequence of the constraints on council incomes arising from the austerity policies of recent years, the County/District Councils were not prepared to get involved with issues relating to the Commons, and had passed it down to the Parish Council. It was further noted that the Parish Council does not have the resources to undertake any significant action relating to the Commons, but that the Land Management did, currently, have such resources. The Parish Council therefore agreed that it would grant authority to the Land Management Company to act on its behalf, particularly (though not exclusively) in relation to encroachments and incursions. The Parish Council noted that this agreement was essentially a technicality in the event of an individual or organisation challenging the authority of the Land Management Company to take any action. It is not intended that anything would change as a consequence of the formal granting of authority to the Land Management Company, and it was explicitly noted that the Land Management Company would continue to be accountable to the Parish Council.

The Parish Council sought guidance on the legitimacy of this Minute from an adviser at the Suffolk Association of Local Councils (SALC), and with particular regard to the sentence: *“The Parish Council therefore agreed that it would grant authority to the Land Management Company to act on its behalf, particularly (though not exclusively) in relation to encroachments and incursions.”* The adviser at SALC confirmed that it was “legally watertight”, and that the use of the word “agreed”, or a comparable word such as “resolved”, or “decided”, was adequate. Furthermore, the use of such words implied that a vote **had** been taken, since otherwise the Parish Council could not have “agreed”, “resolved”, “decided”, etc. The adviser at SALC also stated that a formal vote was **not** needed (in the

sense of each Councillor raising a hand), but that nods, smiles or other indications of assent could validly be taken by the Chair as affirmations in favour.

The conclusion therefore reached was that Minute 8 of the meeting of the Ilketshall St. Andrew Parish Council of 1 February 2021 was entirely legitimate and valid, and therefore that the Parish Council had given appropriate authority to the Land Management Company to act on its behalf.

In order to provide additional clarity and certainty, the matter was further discussed at a meeting of the Ilketshall St. Andrew Parish Council on 9th December 2024. Minute 5 (c) (in part) reads as follows:

*In order to provide further clarity, the Parish Council additionally unanimously **agreed** that it would continue to delegate the management of the Commons to the Ilketshall St. Andrew & St. John Land Management Company, with the management of the Commons including taking action pursuant to Section 45 of the Commons Act (2006), pursuing sources of funding, cutting grass and hedges, maintenance of ponds, and all such other management tasks that the Company considers appropriate at the time.*

*The Parish Council further unanimously **agreed** that while it was continuing to delegate management activities for the Commons to the Land Management Company, it was retaining overall responsibility for the Commons, and would require the Annual Management Plan and all Minutes of Board meetings to be made available to the Parish Council and may require one or more Directors from the Company to attend identified Parish Council meetings to answer questions relating to the management of the Commons. The Parish Council also **agreed** that it was undertaking this delegation of management to the Land Management Company on behalf of the parishioners and Commoners in the villages as a reflection of the importance of the Commons to the community and in the interests of their long-term preservation.*

Rod Apps
Parish Clerk
2 January 2025