

# CHEVERELL MAGNA PARISH COUNCIL

## MINUTES OF AN EMERGENCY MEETING OF CHEVERELL MAGNA PARISH COUNCIL HELD AT 5.30PM ON WEDNESDAY 14 JULY 2021 AT THE PAVILION, WITCHCOMBE CLOSE, GREAT CHEVERELL

Minute No.	Item	Action
49/21	<b>Councillors in Attendance</b> K. Porter, C. Hall, P. Stevens, R Gray	
50/21	<b>Public in Attendance: 6</b>	
51/21	<b>Apologies for Absence</b> B. Morillo-Hall, P. Fox, S. Burgess	
52/21	<b>Disclosures of Interest</b> Cllrs. P. Fox and S. Burgess declared financial interests in the matter under discussion, and did not attend the meeting.	
53/21	<b>Minutes of the Meeting held on 5 July 2021</b> <i>Agreed</i> unanimously without amendment. Signed off by the Chair for Public Display.	
54/21	<p><b>Witchcombe Close – Overage Deed</b></p> <p>Council <i>noted</i> that this was a long-running legal issue, which now needed to be resolved. Having considered all the evidence including, <i>inter alia</i>, the original Overage Deed (drawn up in 2007, prior to the building of the Witchcombe Close estate), information sheets issued by the original Contractor, and recent communication with a resident seeking to sell their property, the Council <i>agreed</i> that, while some clarification was appropriate to explain the circumstances which could cause the Overage Deed to be applied, the Council would not sign any Deed of Variation or other legal documentation that related to a specific property.</p> <p>The Council <i>agreed</i> the following clarification:</p> <p><i>Cheverell Magna Parish Council (“the Parish Council”) hereby affirms that the Overage Deed applies only to the agricultural land owned by the registered proprietors of 1-9 Witchcombe Close. Development land (house and garden) is not subject to overage because it is subject to an ‘excluded disposition’ in accordance with paragraph 1.1, page 3 of the Overage Deed, which states “‘Excluded Disposition’ refers to... ‘the disposal to a buyer of any part of the property comprising a dwelling... ”.</i></p>	

<p>54/21 (contd.)</p>	<p><i>The Parish Council further affirms that the Overage Deed is only invoked when a registered proprietor secures a legal change in land use – eg. from ‘agricultural’ to ‘development’ – and then either sells the land, or commences development work, two eventualities categorised as ‘trigger events’. It follows that the Overage Deed does not apply if the legal status of agricultural land remains unchanged, in which case a trigger event has not occurred. This is in accordance with paragraph 1.1 of the Overage Deed, which states “Overage means the Overage arising from a Trigger Event”.</i></p> <p>The Council also <i>agreed</i> that a letter, stating the above clarification, should be signed by the Chair and sent to all affected properties in Witchcombe Close, to be retained with their house deeds in the event of sale.</p>	<p>K. Porter Clerk</p>
<p>55/21</p>	<p><b>Appointment of New Clerk / RFO</b> The Chair updated Councillors on the recent appointment, following open advertisement and interview. The new Clerk will commence her duties on 1 August 2021.</p>	
	<p><b>The meeting closed at 6.03pm.</b></p>	

**NEXT MEETINGS:**           Monday 6 September 2021, 7.30pm  
                                       Monday 4 October 2021, 7.30pm  
                                       At The Pavilion, Witchcombe Close

**FOR MORE INFORMATION, PLEASE SEE THE COUNCIL’S WEBSITE AT**  
[WWW.GREATCHEVERELL.ORG](http://WWW.GREATCHEVERELL.ORG)

# CHEVERELL MAGNA PARISH COUNCIL

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15 July 2021

## **WITCHCOMBE CLOSE, GREAT CHEVERELL, DEVIZES, WILTSHIRE – OVERAGE DEED**

The Parish Council is writing to you as the Registered Proprietor of a property in Witchcombe Close that is the subject of an Overage Deed dating from 2007. You are **strongly advised** to keep this letter with your House Deeds, or other important documentation, and to make it available to any potential purchaser should you wish to subsequently sell your property.

Given some concern over the application of the Overage Deed, the Council held a formal meeting on 14 July 2021 to agree a statement of clarification of how it would apply the terms of the Overage Deed. It is emphasised that this is not an amendment to the terms of the original Overage Deed – it is a clarification of how the Council would seek to apply it should specific circumstances be met.

At the above meeting, the Council resolved as follows:

Council ***noted*** that this was a long-running legal issue, which now needed to be resolved. Having considered all the evidence including, *inter alia*, the original Overage Deed (drawn up in 2007, prior to the building of the Witchcombe Close estate), information sheets issued by the original Contractor, and recent communication with a resident seeking to sell their property, the Council ***agreed*** that, while some clarification was appropriate to explain the circumstances which could cause the Overage Deed to be applied, the Council would not sign any Deed of Variation or other legal documentation that related to a specific property.

The Council ***agreed*** the following clarification:

***Cheverell Magna Parish Council (“the Parish Council”) hereby affirms that the Overage Deed applies only to the agricultural land owned by the registered proprietors of 1-9 Witchcombe Close. Development land (house and garden) is not subject to overage because it is subject to an ‘excluded disposition’ in accordance with paragraph 1.1, page 3 of the Overage Deed, which states “‘Excluded Disposition’ refers to... ‘the disposal to a buyer of any part of the property comprising a dwelling... ”.***

*The Parish Council further affirms that the Overage Deed is only invoked when a registered proprietor secures a legal change in land use – eg. from ‘agricultural’ to ‘development’ – and then either sells the land, or commences development work, two eventualities categorised as ‘trigger events’. It follows that the Overage Deed does not apply if the legal status of agricultural land remains unchanged, in which case a trigger event has not occurred. This is in accordance with paragraph 1.1 of the Overage Deed, which states “Overage means the Overage arising from a Trigger Event”.*

The Council strongly believes that this resolution, which has the Force of Law in accordance with the Local Government Acts, provides sufficient clarification for all affected properties, both now and in the future, to enable house transactions to proceed unimpeded. While the Council cannot guarantee that a future Council will not seek to amend or withdraw this clarification, it is deemed highly unlikely on the basis that (a) it does not amend the Overage Deed, and (b) the Parish Council is made up, by Law, of elected or co-opted members who are either residents of, or work in, the Parish and will, therefore, have a local knowledge of the affected area.

The Council sincerely hopes that this provides assurance and clarification to all current and future affected householders.

Yours faithfully,

Mrs. Kimi Porter,  
Chair,  
Cheverell Magna Parish Council

Mr. Chris Hall  
Clerk,  
Cheverell Magna Parish Council

**To: The residents of nos. 1-9 Witchcombe Close, Great Cheverell, Devizes, Wiltshire.**

**Delivered by hand**