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# Perranporth Skate Park

## Report from Working Party

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Perranzabuloe Parish Council - 20 February 2019

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# Background

## A Skate Park for Perranporth

In May 2002 Perranzabuloe Parish Council held a public consultation day in the Memorial Hall to seek residents' views on the future development of Perranporth village and identify current problems.

Under the heading "Leisure", people commonly asked for the provision of more multi-purpose, structural recreational facilities, with a "Sports Centre" and a "Skateboard Park" being the most common responses.

Between 2009 and 2012, a Parish Plan was researched and published with the involvement of the Parish Council entitled "Community Plan for the Parish of Perranzabuloe 2013 to 2018". This further explored these themes, with significant responses being gathered from the public and summarised within the document, excerpts of which are listed below:

- \* Social issues & community services:
  - \* Retain Perranporth Library.
  - \* Support/activities for children & young people.
- \* Crime & safety:
  - \* Increase Police presence in the Parish, especially in the summer.
- \* Youth services:
  - \* The need for a youth centre/club house and skate park.
  - \* More things to do/places to go for young people.

Young people were asked to give examples of the sorts of facilities they thought were lacking for people in the parish, and what they would like to see changed or improved. The most popular answers were:

- Youth club/drop-in centre
- Skate park
- Sports centre

It was therefore agreed by the Parish Council to bring forward proposals for the building of a skate park in Perranporth, and it has been the policy of the Parish Council ever since to provide this facility.

## Site Selection

In 2011, pursuant to the early findings of the Parish Plan work, the Parish Council's Amenities Working Group researched the practicalities of siting a skate park in Perranporth and investigated eight possible locations including Bolenna Park, Ponsmere Valley, and Cligga. The councillors involved at the time assessed them on a series of criteria: size, topography, availability, safety to and from the site, visibility, noise and other issues. Most sites were ruled out due to one or more of the criteria, or because they were not legally available.

The two main contenders were considered to be Bolenna Field and Ponsmere Valley, both of which scored highly, offering suitable open space, with good access, and are well within the development envelope of the main settlement.

At this time, however, the area in Ponsmere Valley where the park could have been suitably located was unavailable due to its designation for the development of a Sports Centre and Business Park. The Parish Council had already entered into an agreement with a local developer who was expected to realise the scheme and then lease this land from the council upon its completion. It was therefore not possible to accommodate the skate bowl footprint within this area without compromising that development. Other areas at Ponsmere Valley were investigated, but were either allocated to Cornwall Wildlife Trust or Sports Clubs through leases or licenses.

With this in mind, and considering other advantages associated with Bolenna Field, the Amenities Group removed Ponsmere Valley from consideration and recommended that Bolenna Field should be the only preferred location for the scheme. It was subsequently agreed by Perranzabuloe Parish Council to bring forward a scheme on that basis in March 2012, and in July 2013 it was resolved to prepare and lodge a planning application in Bolenna Park.

## Bolenna Park Scheme

In January 2016, Maverick Industries Ltd - a specialist company engaged exclusively in the design and development of skate parks - was chosen as the council's preferred contractor, and a final design was developed and chosen in liaison with the local skate community. A planning application was lodged in May 2016, with Maverick acting as the council's agent. Ground investigation surveys were carried out in June 2016, which revealed that building a skate bowl was technically possible on the site.

In February 2017, Perranzabuloe Parish Council was granted conditional Planning Permission by Cornwall Council for the provision of "an open air skate park constructed of concrete with quiet surfacing suitable for skate and BMX" at Bolenna Park in Perranporth.



### **Restrictive Covenant**

During initial investigations by the Amenities Group in 2011, it was noted that the proposed location at Bolenna Park is subject to a restrictive covenant. A restrictive covenant is a legal instrument by which a parcel of land has limitations placed upon its future use, by virtue of the terms of the conveyance under which it was originally acquired. In the case of Bolenna Field, most of the land is restricted by a covenant contained within the conveyance dated 20 June 1955, and among other provisions, prescribes that the land is preserved as “open space”.

It was not originally envisaged by the Amenities Working Group that this covenant would preclude the development of an open air skate bowl, and it was proposed that the Parish Council should proceed with its plans in the belief that any issues could be overcome. However, the beneficiaries of the covenant began to make it clear in written communications that they objected to the proposed scheme, and that they considered that the wording of the covenant was sufficient to support injunctive proceedings against the Parish Council should it proceed with building the skate bowl. As the process has continued, the beneficiaries of the covenant have asserted their objections ever more forcefully, and have engaged legal specialists to support their claims.

Perranzabuloe Parish Council has obtained legal advice from its own independent solicitors on a number of occasions, including a legal opinion from a specialist counsel. The advice received has repeatedly indicated that the Parish Council has strong grounds on which to overturn any injunctive proceedings made on the basis of the covenant, but as the matter has proceeded, it has become apparent that the case is certainly not clear cut and that it carries a certain level of financial risk.

Solicitors on both sides have agreed that the only way to obtain clarity on the matter and avoid an injunction is to apply to the county court under Part 8 of the Civil Procedure Rules, in which the Parish Council or the opposing party could apply to have the covenant clarified for the purposes of the proposed scheme. Whilst this is a course of action that the Parish Council has considered taking, our lawyers have repeatedly cautioned that such proceedings would be highly costly to invoke and resolve, will take a considerable time to conclude, and be of an uncertain outcome. Costs will be incurred on both sides, with the losing party likely to bear most or all of the sum total. The Parish Council has therefore paused whilst it considered its options, seeking to address concerns from the elected members and from the community that such litigation action may not be in the interests of the groups seeking the facility, nor in the wider public interest.

In October 2018, therefore, it was resolved by the Parish Council, upon the recommendation of our lawyers, to engage in a mediation dialogue with the beneficiary of the covenant in order to determine whether alterations to the proposed scheme, or other provisions by the Parish Council could be brought forward that would remove the threat of legal action and allow the delivery of the long-awaited skate park.

### **Mediation**

A working party of three parish councillors (Cllrs. Ben Byfield, Mike Crewes and Steve Arthur) was selected by the Parish Council in October 2018 to engage in discussions with the beneficiary of the covenant. These individuals being nominated on account of their consistent support for the skate park project, and their open-mindedness to considering all options to advance its progress.

After an initial meeting, the working party reported back to the Parish Council that they had identified several areas where they felt compromises could be reached, and that they wished to continue with the process. It was agreed by the Parish Council to pursue this and, at the appropriate time, to bring in involvement from both Maverick Industries and from the Perran Skate Collective (a local community group that had been set up to support the delivery of a skate park in Perranporth).

Further meetings were held between all parties, with the following outcomes:

1. It would be possible to reach a compromise with the beneficiary of the covenant to construct a wheeled sports facility, but to achieve a skate park at Bolenna Park that would be free of legal challenge, the scheme would have to be altered in terms of its appearance, design, functionality and size (with a cost to the Parish Council for the design amendments and additional costs for landscaping).
2. The Parish Council would also have to make provisions to exclude night time use of the facility and provide assurance that these measures would be enforced (possibly including ongoing additional costs).

## Ponsmere Valley

Following an extended period of inactivity with the proposed sports centre development in Ponsmere Valley, in 2018 the developer's planning permission for this project expired for the second time. It was decided by the Parish Council to terminate its agreement with the developer and re-think how such a facility could be realised for the community. It was considered that a key factor in the failure of the scheme had been the viability of large sports centres in general, particularly those including a swimming pool, but also the vehicular access requirements of such a development in this particular location.

Therefore, for the first time since the initial consultation in 2002, a significant unused area of Ponsmere Valley could now be considered as a possible location for the provision of a skate park.

During the course of the working party's discussions with Maverick to remodel the Bolenna Park scheme, their management team urged the Parish Council to reconsider the location, on the basis that a scheme in Ponsmere could be realised much more quickly and cost-effectively and without changes to the design. They also expressed concerns about starting a project that had a threat of interruption, and explained that, if instructed to build at Bolenna Park, they would need to seek financial assurances from the Parish Council that if an injunction was issued or a legal interruption occurred, their company would be indemnified against the costs of suspending any works.

It was suggested that Bolenna Park could instead host a smaller, secondary wheeled sports facility which would be likely to avoid legal issues and could be housed adjacent to new play equipment - thereby creating even more recreation provision in the village. This project could follow the installation of the main skate facility if it were to be moved to Ponsmere Valley, and could potentially utilise both the existing Bolenna Park planning consent (subject to an amendment being secured) and the ground investigation works.

Following some initial scoping work by Maverick into these ideas, and following further discussions with the Parish Council, the mediation party presented to Perran Skate Collective the two options of:

- A) A reduced size and downgraded skate park in Bolenna, with usage restrictions.
- B) A full size skate park (of a regionally significant standard) in a new location in Ponsmere Valley with no restrictions - plus a secondary wheeled sports facility to be provided as part of an upgrade to Bolenna Park's play equipment.

The mediation party also explained the Parish Council's concerns about the financial risks associated with challenging the Bolenna Park covenant on the basis of the existing plans, and highlighted the additional time it would take to reach a legal position where (if successful) that scheme would be proceed-able.

After much discussion, it was agreed by Perran Skate Collective that Option B would best serve the local skate community, provided it could be delivered quickly and effectively. A key point being that the existing planning permission at Bolenna Park should remain in place as a back-up plan, should the Ponsmere Valley scheme not prove viable.

The Parish Council’s mediation party agreed to discuss the proposal further with other councillors and to seek assurances from the covenant beneficiary (that have since been forthcoming), to ensure that such proposals would meet with their approval.

### Proposed Revised Location of Perranporth Skate Park



The above visual depicts the exact scheme that has been already designed for Bolenna, relocated into the proposed alternative location in Ponsmere Valley.

It is proposed that the area around this site is also landscaped and improved with a small car parking area, play facilities and an elevated walkway / viewing area. These features are not included in the visual above, but will be included in the proposed scheme.

This plan has the following advantages:

- The land is owned and maintained by Perranzabuloe Parish Council.
- This site can accommodate the existing bowl design with very few additional amendments being required (thereby utilising time and expense already incurred).
- The natural topography is harmonious with the existing design.
- There exists scope to further develop the banked area around the skate bowl with sheltered viewing pods and seats that could create an amphitheatre arrangement.
- Play and exercise equipment could be sited alongside the skate bowl to further enhance the facility's use by families.
- The site is close to, but not within the perimeter of the nearby designated flood plain.
- There is a planning precedent in this location by virtue of the lapsed planning permission for the formerly-proposed sports centre development.
- Nearby ground investigations for both the sports centre and rugby club pavilions indicate a high likelihood that the land is viable for construction of such a scheme.
- The location is easily accessible on foot from various directions, adjacent to a bus stop, and also offers potential to create additional car parking (on the site of the former scout hut) that would serve a wider section of the local community.
- The quality of the park design (which will be a regionally-significant attraction) can be supported by on-site parking provision that will enhance its credentials as an attraction.
- For safeguarding purposes, the site is highly visible, being overlooked by nearby housing (albeit at a reasonable distance in planning terms). There are well-used sports facilities already located adjacent to the site.
- Any noise from the use of the skate park will be shielded by the topography of the site, and is unlikely to be significantly louder than the ambient road noise from the B3285.
- Furthermore, the current Parish Council premises has potential to be re-purposed as a youth club or other sports facility in the future, which would create a hub in this area for recreation among children and young adults.
- Both Perranporth Rugby Club and Perranporth AFC (who occupy the land directly adjacent to the site) have been consulted and indicated their strong support for a skate park to be sited in this specific location.

## Proposed Secondary Wheeled Sports Facility at Bolenna Park

As part of the strategic plan, the Parish Council should work with the local community to seek delivery of a secondary wheeled-sports facility in Bolenna Park, aimed at younger children and to sit next to the new play facilities. Initial concepts and ideas from Maverick include a small pump track facility for scooters, children's bikes and skateboards that has gained initial support from Perran Skate Collective, and (crucially) from the covenant beneficiary. Initial costings can be brought forward with the play park proposals, but are likely to range from £35,000 to £85,000 depending on the size and specification.

### Illustrative example below



### Cost Implications

The Parish Council's main costs with the project so far have been Site Investigations at Bolenna Park, and Scheme Design and Engineering Drawings commissioned with Maverick Industries. No further costs have been committed to future stages of this project.

The proposed plan will make use of all the work undertaken so far, ensuring that there are few abortive costs.

Some key points are outlined below, with more detailed costings being made available at the upcoming public meeting.

- Site investigation work will be required at Ponsmere Valley, but this is being offered at a significantly reduced cost by Maverick.
- Design and Engineering work on the proposed Ponsmere Valley scheme will utilise the work already carried out for the existing Bolenna Park design, minimising the potential for duplicated costs.
- The existing site investigations at Bolenna Park (and potentially the planning consent) will be put to use for the proposed play park and secondary wheeled-sports facility.
- Maverick Industries have offered to carry out the additional work required on the new Planning Application for Ponsmere Valley, and the future amendments to the Bolenna Park consent free-of-charge.
- The activation and build costs of the Ponsmere Valley scheme will be the same as the existing quotation for the original Bolenna Park scheme (for which the Parish Council already has reserved funds).
- It is anticipated that the secondary wheeled-sports facility at Bolenna Park (along with the proposed play park improvements) can be funded by Section 106 contributions that the Parish Council now has access to from recent housing development contributions.

The working party is aware that scrutiny upon the public finances is both necessary and inevitable in such a project. The advantages of this plan are that the main skate park can be delivered at Ponsmere Valley for a cost very close to the original proposal, hopefully eliminating financial risks associated with litigation.

An additional secondary facility can be delivered at Bolenna Park by leveraging the Parish Council's existing investments in the site to access ring fenced s106 funds. This can further enhance the opportunities for family-oriented play and recreation within Perranporth at minimal additional cost to the Parish Council.

### **Proposed Next Steps** (subject to Parish Council vote)

1. Instruct Maverick Industries Ltd to undertake necessary work, in liaison with the Parish Council and the Perran Skate Collective, on a full sized skate park scheme (similar to the existing design) for siting at Ponsmere Valley. This to include:
  - I. Surveys @ £6,500 + VAT
  - II. Design Amendments and Engineering Drawings @ £12,000 + VAT
  - III. Prepare Planning Application including Design & Access Statement @ FOC
2. The Parish Council will lodge as soon as possible an additional Planning Application for the revised scheme at Ponsmere Valley (whilst keeping open the existing permission at Bolenna Park) at a cost of £150 + VAT approximately (tbc).

3. The Ponsmere Valley site will become the Parish Council's chosen scheme once planning consent has been obtained for the new site, and it is established that the design is able to proceed from a construction standpoint.
4. The Parish Council will develop proposals with Maverick Industries for the provision of a secondary wheeled sports facility aimed at younger children in Bolenna Park, to sit alongside the play equipment. Once Ponsmere Valley is established as the chosen and viable location for the main facility, these plans will be activated and s106 monies allocated.
5. As part of the proposal, the Parish Council should continue to consult with Perran Skate Collective to ensure the needs of the local rider community are addressed. Provisions should also be made to consult with Cornwall Council on improvements to pedestrian safety and road access to the Ponsmere site.