A meeting of Lowick Parish Council was held on 17th July 2012 at 7.30pm in the Village Hall

Present: JA Huddart, Mrs A Worlock, Mrs MA Bell, W Perks, Mrs F Burn, Mrs L Bradbury, Councillor RJD Watkin, M Buston (TC Smith’s, solicitors) and 11 members of the public

1. The Chairman welcomed everyone and set out changes to the agenda

2. Apologies for absence were received from PD Calder, Mrs S Graham, SA Mather

3. Declaration of Interest – RJD Watkin declared an interest on planning matters and W Perks declared an interest in the planning application for a bungalow

4. Lowick Common The Chairman circulated the minutes from the site visit to the Common including some photographs

5. Matters Arising from site visit minutes – none

6. Discussion then followed with regard to the legal points of view and the extent of the Parish Council’s interest in the road along the west side of the common. JA Huddart set out what he had found in the archives and the Parish Council minutes in 1979 set out the easement to Burnhouse, a deed was drawn up and was accepted by Burnhouse and the Parish Council and the track was measured.

The Chairman then asked Mr Buston, who was acting on behalf of Mr Colgan for his comments. Mr Buston commented that he thought it would be helpful if all parties could work towards a conciliatory outcome, although two applications had been made to the Land Registry for outright ownership of the land in front of the houses, Mr Colgan had objected to these applications and this matter was now being dealt with by an adjudicator for the Land Registry. Mr Buston then went on to say that the measurement for the track did not start at the posts but that the easement starts from the houses (the pavement). Mr Huddart disputed this statement, he said the easement was created, markers put down and the architects drawings show exact starting point with the notations ‘here is pavement’, he also said that the plans also define the measurement of the bridge. Mr Huddart thought the plans were not as clear as Mr Buston indicated and he wasn’t aware of any plans which were more definitive than the ones he has which were plans possibly drawn up by Lowick Silos which show location plan, house drawings, access route.

It was pointed out that issues with regard to Common Land have their own peculiarities and the track remains under the 1965 Act. It is unlawful to prevent access over it and residents have a right of parking but can’t have right of ownership. The Parish Council could assist with a solution, if someone has a car to park they have a right to park it. It was questioned if space could be made available on the eastern side of the track for parking, but the overriding fact is that Commons should benefit the community. RJD Watkin pointed out that a combine using the track would be extraordinary traffic.

It was suggested that the Parish Council could give permission for residents to park outside their houses but everyone would have to agree and parking in front of the houses would mean a change in direction for the track to prevent the right of way being blocked.
Following heated discussions Mr Huddart suggested the meeting was closed as he felt it had been sabotaged and that the village had been put back 30 years when everyone has lived in harmony. He said the Parish Council would have to take legal advice before any decisions can be taken. He said the road was not suitable for heavy traffic, and that there was another access into the field.

Mr Colgan said he had rebuilt the bridge, which was no wider on Mrs Taylor’s side to make it easier to access the field and that the double gates open into the field and do not interfere with Mrs Taylor’s property. He said he was entitled to come down a two way system and that permission would not have been granted for Burnhouse unless there was provision for 2-way traffic. When questioned about the possibility of a housing development in the field Mr Colgan said he wanted to build one house for his son land does not plan to build more, he said he would not want to see a housing estate from his house of farm steading.

With regard to the Inglis development – the planning department have looked at the pavement and all is in the remit.

It was decided to seek advice on the following
1. Determine the extent of the Common
2. What would the Parish Council need to do if any changes were to be made
3. Question whether or not the solution is in the hands of the Parish Council, if no solution can be reached between Mr Colgan and the residents could the Parish Council facilitate widening the Common?
4. Proposal by Mrs Worlock that it should be established where the 15ft measurement should be taken from, and that the Parish Council needs access to the legal documents which Mr Buston has
5. A plan for the entrance to the field should be sought as it was felt this might have been established probably by prescriptive rights.

JA Huddart concluded by saying that very important matters had been discussed and feelings sometimes run high and that it would probably be September before more discussions could take place but he still felt the best way forward would be an amicable agreement between friends.