

Lancashire County Council

Commons and Town Greens Special Sub-Committee for VG105

Minutes of the Meeting held on Tuesday, 19th March, 2013 at 10.00 am in Cabinet Room 'D' - County Hall, Preston

Present:

County Councillors

F De Molfetta
A Jones

P Steen

1. Apologies

There were no apologies.

2. Membership, Chair and Terms of Reference

County Councillor De Molfetta nominated County Councillor Tony Jones as Chair of the Sub Committee. The nomination was seconded by County Councillor Peter Steen.

Resolved : That

- i. The Terms of Reference, as set out in the report, be agreed
- ii. County Councillor Tony Jones be appointed Chair of the Sub Committee

3. Disclosure of Pecuniary and Non-Pecuniary Interests

None were disclosed.

4. Commons Act 2006 The Commons Registration (England) Regulations 2008

Determination of a Village Green Application Ref No. VG105 relating to land at Bradley Lane Pond Field, Eccleston

The Chairman introduced the item, explaining that the Sub Committee intended to listen to and consider the evidence and information presented at the meeting,

asking such questions as they considered appropriate in accordance with the procedure set out in the Directions (Appendix 1 to the report)

Present on behalf of the Objector were:

Martin Carter, Counsel for the Objector
David Forshaw, Planning Manager, Northern Trust, Landowner and Objector
Mike Pocock, Partner, Pinsent Masons for the Objector
Elizabeth Wiseman, Solicitor, Pinsent Masons for the Objector

It was reported that there was a preliminary issue to resolve, being the status of the Applicant's 'application to withdraw', on the basis of a letter received from the Applicant indicating his wish to withdraw the Application. A copy of the letter and related correspondence was circulated and added to the Applicant's Bundle at document 7.

The Objector was invited to make representations on the status of the application to withdraw. The Objector requested that the Sub Committee treat the Application as withdrawn making reference to paragraph 7.13 of Defra's "Guidance to commons registration authorities and the Planning Inspectorate for the pioneer implementation" issued September 2011 ("Defra's guidance") and to the case of *Oxfordshire County Council v Oxford City Council and another and others* ("Trap Grounds case") as referred to at paragraph 7.13.5.

The Chairman then adjourned the meeting to enable the Sub Committee to consider the status of the 'application to withdraw'.

On resumption of the meeting, the Chairman advised that:

- It was confirmed that the second Applicant, Eccleston Parish Council had resolved to withdraw its previous support for VG105 in March 2012;
- The Applicant was merely withdrawing witnesses and himself from the Hearing only and that there was no reference of the other 16 user forms in support of the Application.
- Moreover, there was no indication in the application to withdraw that the applicant was withdrawing any of his evidence submitted in support. Therefore, although the applicant was not present at the hearing, all the written evidence remains submitted and would be duly taken into account.
- In accordance with Defra's guidance the Sub Committee considered it in the public interest to determine a duly made application so that the status of the land is clarified.
- Application to withdraw was given with short notice (1.5 days prior to the commencement of the Hearing).

- It was considered that no prejudice was caused to the Objector. The Objector was advised that the Hearing was more likely to proceed on the day.

For these reasons, the Sub Committee considered that the application should not be treated as withdrawn and that the Sub Committee would listen to and consider the evidence and information presented at the meeting and would ask such questions as considered appropriate.

The Chairman then confirmed that the Hearing would continue to follow the procedure set out in the Directions and that a decision would be made at a later meeting having received a further report and officer recommendation before determining the Application. The Objector confirmed that they intended to call one witness, Mr Patrick Hemmings.

The Chairman adjourned the meeting at this point.

On resumption of the meeting, the Sub Committee heard the evidence of Mr Patrick Hemmings. Mr Hemmings read his summary statement and then answered questions put by the Sub Committee.

The Sub Committee requested the Objector to provide his closing statement in writing by 5pm on Friday 22 March.

Resolved: That the Sub Committee is to receive a further report and officer recommendation before it determines the Application at its next meeting.

5. Date of Next Meeting

The next meeting of the Commons and Town Greens Special Sub Committee for VG105 is scheduled to be held on Friday 26 April in Cabinet Room D at County Hall, Preston, commencing at 10:00am.

I M Fisher
County Secretary and Solicitor

County Hall
Preston