

Lancashire County Council

Commons and Town Greens Special Sub-Committee for VG105

Tuesday, 19th March, 2013 at 10.00 am in Cabinet Room 'D' - County Hall, Preston

Agenda

Part 1 (Open to Press and Public)

No.	Item	
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1.	Apologies	
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2.	Membership, Chair and Terms of Reference	(Pages 1 - 4)
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3.	Disclosure of Pecuniary and Non-Pecuniary Interests	
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Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

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	(Pages 5 - 18)
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5.	Urgent Business	
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An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

6.	Date of Next Meeting	
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The next meeting of the Sub-Committee has been scheduled to be held on Friday 26 April 2013 at 10.00a.m at County Hall Preston.

I M Fisher
County Secretary and Solicitor

County Hall
Preston

Agenda Item 2

Commons and Town Green Special Sub Committee for VG105

Meeting to be held on Tuesday 19 March 2013

Electoral Division affected: None

Membership, Chair and Terms of Reference

(Appendix 'A' refers)

Contact for further information:

Josh Mynott (01772) 534580, Office of the Chief Executive

Josh.mynott@lancashire.gov.uk

Executive Summary

At its meeting on 11 December 2012, the Regulatory Committee agreed to the establishment of The Special Sub Committee for VG105 to determine the Town and Village Green Application No. VG105 relating to land at Bradley Lane Pond Field, Ecclestone.

Recommendation

The Special Sub-Committee is asked

- i. to note the Membership and Terms of Reference of The Special Sub-Committee VG105.
- ii. to appoint a Chairman of the Sub Committee.

Background and Advice

At its meeting on 11 December 2012, the Regulatory Committee considered the establishment of a Sub Committee to determine the Town and Village Green Application No. VG105 relating to land north of Bradley Lane, Ecclestone known as Bradley Lane Pond Field.

The Committee:

- i. Approved the establishment of 'The Special Sub-Committee for VG105' (the Special Sub-Committee) to determine the application for the registration of a village green relating to land north of Bradley Lane known as Bradley Lane Pond Field, Ecclestone.
- ii. Agreed that the membership of the Special Sub-Committee be drawn from 3 members of the Commons and Town Greens Sub-Committee on the basis of 2 members of the Conservative Group and 1 member of the Labour Group.

- iii. Agreed that nominations to serve on the Special Sub-Committee be submitted by the respective political group secretaries.
- iv. Agreed that the quorum for the Special Sub-Committee be 2 members.

Following consultation with the relevant political groups, the membership of the Sub-Committee is as follows:

County Councillor Tony Jones

County Councillor Frank de Molfetta

County Councillor Peter Steen

The Special Sub Committee is requested to appoint a Chairman.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

N/A

Risk management

There are no risk management implications arising from this report.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
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N/A

Terms of Reference

Commons and Towns Green Special Sub Committee for VG105

Composition and role

The Special Sub-Committee for VG105 is established by the Regulatory Committee and comprises three County Councillors to determine Application No. VG105, land to the north of Bradley Lane known as Bradley Lane Pond Field, Ecclestone. Quorum will be two members.

Meetings are open to the public but they may be excluded where information of an exempt or confidential nature is being discussed – see Access to Information Procedure Rules set out at Appendix 'H' to the Constitution.

Terms of Reference

The Special Sub-Committee shall carry out the following functions:

1. To exercise the Council's powers under the Commons Registration (England) Regulations 2008 to hear and consider the evidence and information to be presented at the meeting asking such questions as they consider appropriate in accordance with the procedure set out in the Directions to parties in relation to Application No. VG105, Land at Bradley Lane Pond Field, Ecclestone;
2. To determine Application No. VG105, Land at Bradley Lane Pond Field, Ecclestone
3. To exercise the duties powers and functions of the County Council as Registration Authority under Part 1 Commons Act 2006.

Agenda Item 4

Commons and Town Greens Special Sub Committee for VG105

Meeting to be held on Tuesday 19 March 2013

Electoral Division affected: Chorley Rural West
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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

(Appendix A refers and Applicant's Bundle and Objector's Bundle refer)

Contact for further information:

Miss Ravinder Amrith, 01772 536098, Office of Chief Executive,
ravinder.amrith@lancashire.gov.uk

Please note that due to the size of the Applicant and Objector bundle of evidence, except for the application plan attached, it is not possible to make them available electronically. Any person wishing to view the papers may do so by appointment and should contact in the first instance Josh Mynott on 01772 534580.

Executive Summary

An application relating to land north of Bradley Lane, Eccleston, known as Bradley Lane Pond Field, to be registered as a Village Green.

Recommendation

That the Special Sub-Committee for VG105 listens to and considers the evidence and information to be presented at the meeting asking such questions as they consider appropriate in accordance with the procedure set out in the Directions to parties (Appendix A refers).

The Special Sub-Committee for VG105 is required to determine the application for the registration of a village green relating to land north of Bradley Lane known as Bradley Lane Pond Field in accordance with the Commons Act 2006, after considering all the evidence presented to it.

The Special Sub Committee may feel it appropriate to adjourn to a later date and receive a further report and officer recommendation before determining the application.

Background and Advice

Under the Commons Act 2006 ("the 2006 Act") Lancashire County Council is the Commons Registration Authority for Lancashire and has previously delegated

decisions to alter the registers to the Commons and Town Greens Sub Committee and any Special Sub Committees set up to determine specific town or village green applications.

The Commons Registration (England) Regulations 2008 (as amended) ("2008 Regulations") apply in Lancashire and prescribe the procedure for making applications to amend the registers of common land and town or village greens. Under the 2008 Regulations, Lancashire County Council as Common Registration Authority must determine application VG105.

The Commons and Greens Sub-Committee in its meeting on 24 October 2008 determined that, when appropriate, in order to determine town green applications, the Registration Authority would arrange its own hearing of oral evidence and submissions. Parties would be requested to follow directions as given and to cross examine the evidence. The hearing would be non-statutory and no Statutory Regulations prescribe procedure.

The Regulatory Committee in its meeting 11 December 2012 was advised that the application VG105 required that oral evidence be heard and tested through cross examination and that a Hearing would be arranged at which members of a Special Sub Committee would listen to evidence and then determine the application. The Regulatory Committee approved the establishment of 'The Special Sub-Committee for VG105' (the Special Sub Committee) and on 1 February 2013 'Directions for Hearing' were served on the Applicant and Objector to ensure the smooth running of the hearing and fairness to all parties and the public (Appendix A refers).

Application for registration of VG105

The Special Sub-Committee is provided with the Applicant's Bundle sub-divided into 6 documents and the Objector's Bundle sub-divided into 15 documents. When referring to the appendices in the Applicant's bundle reference will be made to AB, the document number and the page number(s). When referring to the appendices in the Objector's bundle reference will be made to OB, the document number and the page number(s).

Section 15 of the 2006 Act sets out the criteria for the registration of land as a new town or village green. This section came into force on 6 April 2007. Land can become a town or village green where a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and, they continue to do so at the time of the application (s15(2)) or, where use ceased after 6 April 2007 and the application is made within two years of the date on which use ceased (s15(3)), ('qualifying period'). Other qualifying periods exist but are not applicable to this application.

In this case the application has been submitted on the basis that the application land known as Bradley Lane Pond Field has become a village green because a significant number of the inhabitants of the Parish of Eccleston have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years. For the purposes of the qualifying period, the application land shown edged red attached as

AB/Doc 2 at page 224 has been sub-divided. The application land shown edged yellow is made pursuant to s15(2) to which use continued to do so at the time of the application ('the Bradley Lane Field') and the application land shown edged blue is made pursuant to s15(3) to which use ceased after 6 April 2007 and the application is made within two years of the date on which use ceased ('the Bradley Lane Pond').

The application relates to land north of Bradley Lane, Eccleston, known as Bradley Lane Pond/Field, ('the application land') to be registered as a village green. The applicant is Mr David Walton and the application was duly made on 9 February 2012. The principal components of the application are a 'statement of justification for application', a 'site location plan', maps showing 'Eccleston Sports and Recreational Areas', 'ariel maps dated 1999 including access points', 'area plan of proposed housing areas under Carrington Centre redevelopment proposal' and 'google maps of Bradley Lane Pond Field', photographs showing 'access points', 'pond/wildlife area and activities' and 35 evidence questionnaires attached as AB/Doc1 at pages 1 to 222.

An objection to the application for registration was received from Northern Trust Company Limited as owner dated 13 September 2012 with four witness statements and supporting evidence attached as OB/Doc1 to OB/Doc6 pages 1 to 139 (excluding OB/Doc3 at pages 122 to 127)

The Applicant has commented on the objection and a copy of their comments is attached as AB/Doc 3 at pages 227 to 247.

In accordance with 'The Directions for Hearing' the Applicant has provided: a list of witnesses he intends to call to give oral evidence at AB/Doc4 at page 248; a further three written witness statements at AB/Doc4 at pages 249 to 254; a skeleton argument at AB/Doc5 at pages 255 to 260 and a list and copies of the legal authorities that he intends to rely upon at the hearing at AB/DOC6 at pages 261 to 490.

In accordance with 'The Directions for Hearing' the Objector has provided; a summary witness statement of one witness he intends to call to give oral evidence attached as OB/Doc3 at pages 122 to 127, a skeleton legal argument attached as OB/Doc14 at pages 157 to 164 and a list and copies of the legal authorities that he intends to rely upon at the hearing attached as OB/Doc15 at pages 165 to 507.

The matter for consideration by the Special Sub-Committee is to consider the application and the objection and to decide whether or not the Applicant, is able, on balance of probability, to show that Bradley Lane Field is already in law a village green as defined in section 15(2) and Bradley Lane Pond is already a village green as defined in section 15(3) of the 2006 Act.

Consultations

In accordance with the 2008 Regulations the application has been advertised by Commons Registration Authority by publishing a notice on its website 17 July 2012, in the Chorley Guardian on 18 July 2012 and by serving a copy on Chorley Borough

Council and Eccleston Parish Council. In addition, a copy of the application was deposited for public inspection at the offices of Chorley Borough Council. The Applicant served notice of the application on Northern Trust Group Ltd (the owner) and their solicitors then DLA Piper UK LLP and posted two notices on Bradley Lane near the application land on 30 July 2012.

Site Inspection

The Special Sub-Committee will inspect the application land affected by the application accompanied by the Applicant and the Objector on the afternoon of Wednesday 13 March 2013.

Advice:

The matter for consideration by the Special Sub Committee is to assess the facts of the case as presented in the application and decide whether or not the application land, is on balance of probability a village green and should be registered in the Register of Town and Village Greens held by Lancashire County Council as Registration Authority.

The Special Sub Committee must consider the various elements of the definition of a village green as set out above. Consideration must be given as to those who have used the application land and the use they have actually made of it, whether that use has been as of right and whether the use has been sufficient throughout the period of use which must be continuous for not less than 20 years.

Implications:

N/A

Risk management

Consideration has been given to the risk management implications associated with this application. The Special Sub-Committee is advised to listen to and consider the evidence and information to be presented at the meeting asking such questions as they consider appropriate in accordance with the procedure set out in the Directions to parties (Appendix A refers) acting reasonably and fairly to both parties and in accordance with advice in this report. Provided the above is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
LSG4/RKA/3.645	11 March 2013	Ravinder Amrith Office of Chief Executive 01772 536098 ravinder.amrith@lancashire .gov.uk

Reason for inclusion in Part II, if appropriate

N/A

DIRECTIONS FOR HEARING

**IN THE MATTER OF SECTION 15 OF THE COMMONS ACT
2006**

**AND IN THE MATTER OF AN APPLICATION FOR THE
REGISTRATION OF LAND AT BRADLEY LANE POND FIELD,
ECCLESTON AS TOWN OR VILLAGE GREEN**

APPLICATION VG105

This Hearing ("Hearing") to be held by Lancashire County Council as Commons Registration Authority ("Registration Authority") is a hearing of evidence by "The Special Sub-Committee for VG105" ("the Special Sub-Committee") to assist in the determination of the above application in respect of land at Bradley Lane Pond Field, Eccleston ("the Site"). It is not an 'inquiry' under The Commons Registration (England) Regulations 2008 ("Regulations") or a 'hearing' under the Regulations. These Directions are issued by the Commons Registration Authority to try to ensure the smooth running of the Hearing and fairness to all parties and the public.

1. The Applicant by 18 February 2013 serve on the Registration Authority and on the Objector (see Schedule 1) the following:-
 - 1.1. A list of all the witnesses the Applicant intends to call to give evidence.
 - 1.2. Only insofar as not already provided, signed written witness statements containing the evidence of each witness on which the Applicant intends to rely.
 - 1.3. Where a witness statement exceeds one thousand five hundred words (1,500), a written summary shall in addition, be required.

2. The Objector by 18 February 2013 serve on the Registration Authority and on the Applicant (see Schedule 1) the following:-
 - 2.1. A list of all the witnesses the Objector intends to call to give evidence.
 - 2.2. Only insofar as not already provided, signed written witness statements containing the evidence of each witness on which the Objector intends to rely.
 - 2.3. Where a witness statement exceeds one thousand five hundred words (1,500), a written summary shall in addition, be required.
3. The Applicant and the Objector by 4 March 2013 serve on the Registration Authority and each other the following:-
 - 3.1 A skeleton argument including a summary of any legal arguments that they intend to rely upon at the Hearing and copies of any legal authorities to be relied upon.
 - 3.2 A paginated and indexed bundle containing any additional documents on which the Applicant and Objector intend to rely upon.
4. All documents served on the Registration Authority shall be submitted to Miss Ravinder Amrith, Solicitor, at County Secretary and Solicitors Group (Ref: LSG4/RKA/VG105/3.645), P.O. Box 78, County Hall, Preston PR1 8XJ.
5. Documents to be served on the Applicant and the Objector shall be sent to those persons at the addresses listed in Schedule 1 attached hereto.
6. The date, time and venue of the Hearing will be publicised by the Registration Authority by:-
 - (i) posting a notice on or near the Application Site for 14 days prior to the commencement of the Hearing;
 - (ii) publishing a notice on the website of the Registration Authority;
 - (iii) publishing a notice in the local newspaper circulating in the locality where the Site is situated during the 14 day period prior to the commencement of the Hearing;

- (iv) displaying a notice at the Hearing venue during the days that the Hearing is sitting;
7. The Hearing will commence at 10.00 am on Tuesday 19 March 2013 at County Hall, Fishergate, Preston PR1 8XJ and will continue if necessary on the subsequent 2 days.
 8. The Hearing will generally sit between 10.00 am and 5.00 pm with a 1 hour's break for lunch and 15 minute breaks mid-morning and mid-afternoon.
 9. The Hearing will be conducted as follows, subject to any changes made at the Special Sub-Committee's discretion: -
 - 9.1 The Applicant shall be invited to make a short Opening Statement if he so wishes.
 - 9.2 The Applicant shall call each of his witnesses in turn and each witness shall give his evidence. If the Applicant wishes the witness to read their written statement, in the case of a statement where a summary has been provided, only that summary shall be read at the Hearing. Each witness will be subject to cross examination by the Objector, and re-examination as appropriate and be asked any questions the Special Sub-Committee or their adviser may have.
 - 9.3 The Objector shall be invited to make a short Opening Statement if he so wishes.
 - 9.4 The Objector shall call each of his witnesses in turn and each witness shall give his evidence. If the Objector wishes the witness to read their witness statement, in the case of a statement where a summary has been provided, only that summary shall be read at the Hearing. Each witness will be subject to cross examination by the Applicant, and re-examination as appropriate and be asked any questions the Special Sub-Committee or their adviser may have.
 - 9.5 The Special Sub-Committee shall then invite any additional evidence from interested members of the public or any other third parties with cross examination by the opposing party.

- 9.6 The Objector shall be invited to make any closing statement he wishes to make and if required by the Special Sub-Committee to submit the same in writing, time scales to be agreed at the Hearing.
- 9.7 The Applicant shall be invited to make any closing statement he wishes to make and if required by the Special Sub-Committee to submit the same in writing, an agreed time after that submitted by the Objector.
10. Having the permission of the landowner, the Special Sub-Committee may make an inspection of the Site at a time to be arranged at the Hearing. No further evidence will be accepted during that Site visit. Should the Special Sub-Committee decide to make an inspection of the Site, the Applicant will be asked if he wishes to be present or represented at such site inspection and if the Applicant wishes to be present or represented the Special Sub-Committee will also invite the Objector to be present or represented. The inspection does not need to be postponed if the Applicant or their representative is not present at the appointed time.
11. Any person interested in the subject-matter of the Hearing may appear at the Hearing in person or by a representative.
12. The Special Sub-Committee may, at any stage of the Hearing, prevent any person from –
- (a) giving evidence,
 - (b) cross-examining a person giving evidence, or
 - (c) presenting any matter,
- if the Special Sub-Committee considers it to be irrelevant or repetitious.
13. The Special Sub-Committee may –
- (a) require a person to leave the Hearing
 - (b) prevent a person from participating in the Hearing by giving evidence, cross-examining a person giving evidence, or presenting any matter; or
 - (c) permit a person to remain at, or participate in, the Hearing only on specified conditions.

14. The Special Sub-Committee may proceed with the Hearing in the absence of any person entitled to appear at it.
15. The Special Sub-Committee may take into account any written representations or evidence or any other document received by the Special Sub-Committee from any person before or during the Hearing, provided that the Special Sub-Committee discloses it at the Hearing.
16. The Special Sub-Committee may –
 - (a) adjourn at any time and for any length of time during the Hearing ;
 - (b) adjourn to another date;
 - (c) adjourn the Hearing to the Site of any land affected by the application or proposal, and conduct part of the Hearing at that site in conjunction with a Site inspection.
17. Parties should note that these Directions may be revised.

DATED this 1ST day of FEBRUARY 2013

Miss Ravinder Amrith
Solicitor for the Commons Registration Authority

DIRECTIONS FOR HEARING

**IN THE MATTER OF SECTION 15 OF THE COMMONS ACT
2006**

**AND IN THE MATTER OF AN APPLICATION FOR THE
REGISTRATION OF LAND AT BRADLEY LANE POND FIELD,
ECCLESTON AS TOWN OR VILLAGE GREEN**

APPLICATION VG105

SCHEDULE 1

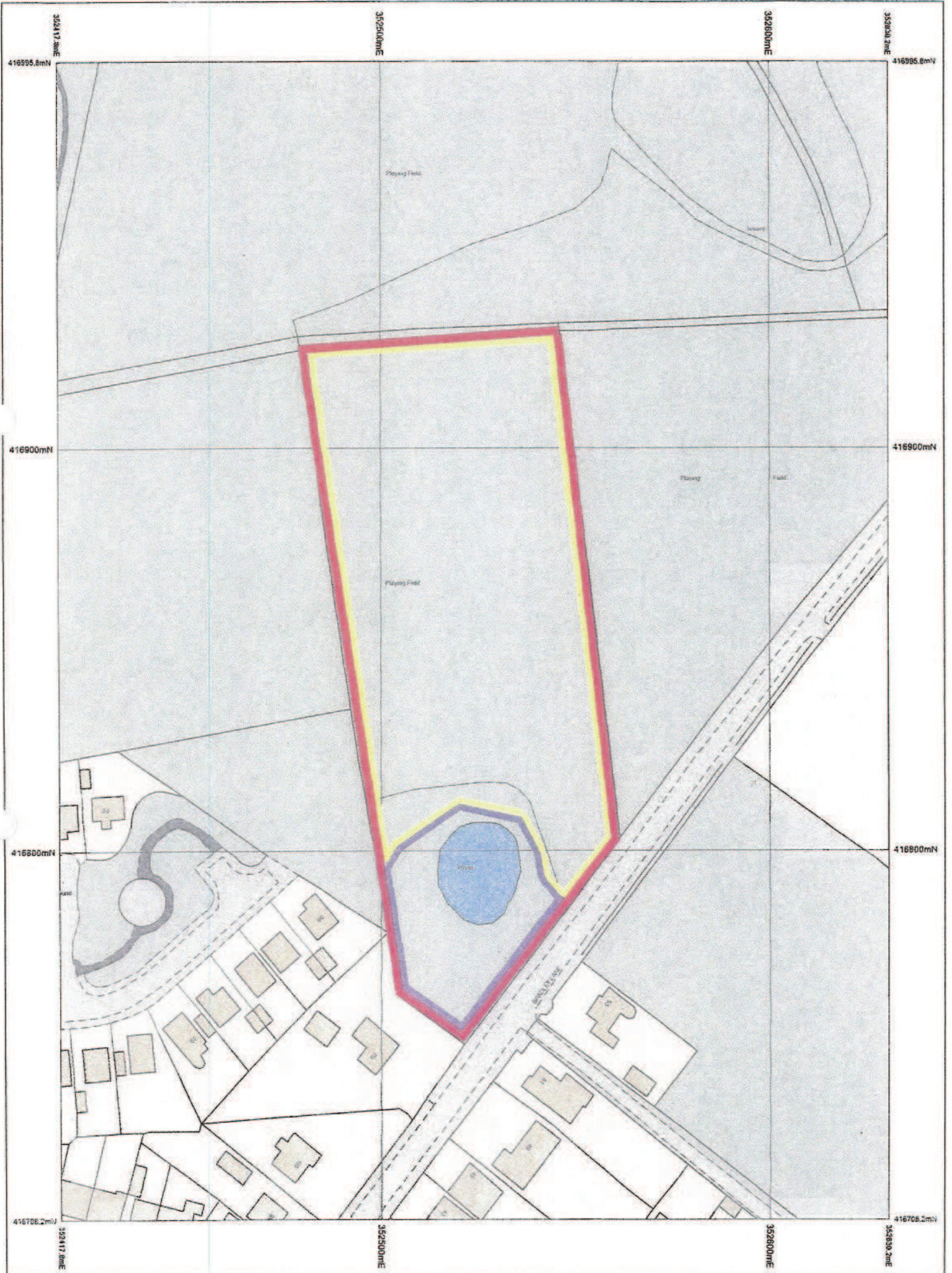
ADDRESS FOR SERVICE

APPLICANT

Mr David Walton
51 Bradley Lane
Ecclestone
Chorley
PR7 5RJ

OBJECTOR

Michael Pocock, Partner
Pinsent Masons LLP
3 Hardman Street
Manchester
M3 3AU



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