

Lancashire County Council

Commons and Town Greens Special Sub-Committee for VG105

Minutes of the Meeting held on Friday, 26th April, 2013 at 10.00 am in Cabinet Room 'D' - County Hall, Preston

Present:

County Councillors

F De Molfetta

A Jones

6. Apologies

Apologies were received from County Councillor Steen. It was confirmed that the meeting was quorate.

7. Disclosure of Pecuniary and Non-Pecuniary Interests

None were disclosed.

8. Minutes of the meeting held on 19 March 2013

Resolved: That the minutes of the meeting held on 19 March 2013 be confirmed

9. 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 Sub Committee considered the report and officer recommendation and its legal officer addressed sections 15(1), 15(2) and 15(3), the burden and standard of proof and the 'Advice' section of the report including the evidence for the Applicant and the Objector and the application of the law to the facts.

The Sub Committee noted that the burden of proof is on an applicant for land to be registered as a Town or Village Green and that all elements must be established by the Applicant; if one element failed, the Application would fail. It was also noted that the Application must be proved on the balance of probabilities and that the Court of Appeal has said that it is "no trivial matter" for land to be registered as a Town or Village Green and that an application must be "properly and strictly proved".

The Sub Committee considered each element of the common requirements in subsection 15(2) and 15(3) namely, the 'land', the 'use for lawful sports and pastimes', the 'use by a significant number of the inhabitants of any locality or of any neighbourhood within a locality', the 'use for not less than 20 years' and 'use as of right'.

Having considered all of the evidence put before the Hearing, both orally and in writing and the Objector's written closing submission, and taking into account the weight properly attributable to such evidence, and the burden and standard of proof which was applicable, the Sub Committee concluded that the Applicant had failed to establish all those elements on the following grounds:

- (a) That the use of the Land for lawful sports and pastimes has not been carried out by a significant number of the inhabitant of the Parish of Eccleston;
- (b) That the use of the Land for lawful sports and pastimes has not taken place throughout the relevant 20 year period under subsection 15(2) and 15(3);
- (c) That the majority of the use of the Land has not been as of right.

A Notice to this effect would be published (copy attached to these minutes)

Resolved: That the Land described in the Application as 'Bradley Lane Pond Field' situated to the north of Bradley Lane, Eccleston, Chorley should not be added to the Register of Town and Village Greens.

I M Fisher
County Secretary and Solicitor

County Hall
Preston

**NOTICE OF DECISION
IN THE MATTER OF SECTION 15(1) (2) & (3) OF THE
COMMONS ACT 2006
AND IN THE MATTER OF AN APPLICATION FOR THE
REGISTRATION OF LAND DESCRIBED AS 'BRADLEY
LANE POND FIELD' SITUATED TO THE NORTH OF
BRADLEY LANE, ECCLESTON, CHORLEY AS A TOWN
OR VILLAGE GREEN
(APPLICATION REF NO. VG105)**

Notice is hereby given that Lancashire County Council as the Registration Authority, at a meeting held on the 26 April 2013, considered the application to register in the Register of Town and Village Greens the land described in the application as 'Bradley Lane Pond Field' situated to the north of Bradley Lane, Eccleston, Chorley.

The Registration Authority decided to reject the application and make no changes to the Register of Town and Village Greens for the following reasons;-

Having considered all the evidence put before the Hearing both orally and in writing and the Objector's written closing submission, and taking into account the weight properly attributable to such evidence, and the burden and standard of proof which is applicable, it is considered that the Applicant has, on the balance of probabilities, failed to establish all those elements on the following grounds:

- (a) That the use of the Application Land for lawful sports and pastimes has not been carried out by a significant number of the inhabitants of the Parish of Eccleston;
- (b) That the use of the Application Land for lawful sports and pastimes has not taken place throughout the relevant 20 year period under subsection 15(2) and 15(3);
- (c) That the majority of the use of the Application Land has not been as of right.

Dated 29 April 2013

**I M Fisher
County Secretary and Solicitor
Lancashire County Council
PO Box 78
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