

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:

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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, Ecclestone, 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 'Ecclestone Sports and Recreational Areas', 'aerial 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