

MEETING OF THE LICENSING SUB-COMMITTEE

held 29th March 2012

PRESENT: Councillors Ian Saunders (Chair), Diane Leek, Vickie Priestley and Clive Skelton.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 An apology for absence was received from the Chair (Councillor John Campbell).

3. COMMONS ACT 2006 – APPLICATIONS FOR VILLAGE GREEN REGISTRATIONS

3.0.1 Further to the decision of the Sub-Committee at its meeting held on 19th January 2012, the Director of Legal Services submitted a report on applications by Dore Village Society for the registration of Totley Brook Playing Fields and Kings Croft as Village Greens under Section 15(2) of the Commons Act 2006.

3.0.2 Present at the meeting were Mike Pocock (Solicitor, DLA Piper Solicitors, representing the applicants), Elizabeth Wiseman (DLA Piper Solicitors), David Cooper (Parks and Countryside), David Sellars and Kavita Ladva (Legal Services), Julian Ward (Solicitor representing the Registration Authority and Solicitor to the Sub-Committee) and John Turner (Democratic Services).

3.1 Totley Brook Playing Fields

3.1.1 Julian Ward presented the report to the Sub-Committee, indicating that the Sub-Committee had deferred consideration of the application at its meeting held on 19th January 2012, as a result of lack of clarity regarding the legal issues raised at that meeting, as well as a lack of opportunity afforded to the applicants to consider the case put forward by the Council. It had been agreed that both parties would seek Counsel's opinion on the legal position and the opinion of Mr Vivian Chapman QC, was appended to the report now submitted. Mr Ward made specific reference to the minutes of the meeting of the Council's former Recreation Programme Committee held on 9th February, 1978, which contained the resolution regarding the appropriation of the land from the former Housing Programme Committee to the former Recreation Programme Committee, for general recreational purposes.

- 3.1.2 Mike Pocock referred to the letter dated 28th March 2012, which was circulated to Members of the Sub-Committee, indicating that there was some confusion as to whether there had been a statutory appropriation under Section 122 of the Local Government Act 1972, or simply a transfer of responsibility between Committees. He also referred to Counsel's opinion, stating that in his opinion, the Council had not provided any statutory evidence of the appropriation under the Local Government Act 1972.
- 3.1.3 In response to a question from Councillor Clive Skelton, Mr Ward confirmed that Counsel's opinion had been received prior to the discovery of the minutes of the Recreation Programme Committee, and that Vivian Chapman QC had indicated that he would be happy to accept that it was a valid appropriation if the relevant Committee minutes could be found. He did not request that the evidence be sent to him for further review.
- 3.1.4 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.

At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

RESOLVED: That, in the light of the information and evidence set out in the report now submitted, and Counsel's opinion, the Sub-Committee is satisfied that there were valid appropriations of the land for general recreational purposes and that the use of the land is 'by right' and not 'as of right' therefore, the application for the registration of Topley Brook Playing Fields as a Village Green, under Section 15(2) of the Commons Act 2006, is not legally valid.

3.2 Kings Croft

- 3.2.1 Julian Ward presented the report to the Sub-Committee, indicating that Counsel had been sent copies of the relevant conveyances regarding the land and was of the view that the use of the land was 'as of right' and not 'by right'. On this basis, the Council had accepted that the application for the registration of Kings Croft was valid. He made reference to the letter from DLA Piper, Solicitors, dated 28th March 2012, and stated that Mr Pocock's views in terms of the objections to the application were immaterial as this was a matter for the consideration of the Sub-Committee. He stated that the Sub-Committee was not in a position to agree to register land as a Village Green as it had not considered any of the objections or any valid evidence relating to the application.

- 3.2.2 Mike Pocock stressed that he was not asking the Sub-Committee to make a decision on the application, but asking that the application be remitted to the Council, as the earliest possible opportunity, to enable the application to be considered.
- 3.2.3 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 3.2.4 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 3.2.5 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 3.2.6 RESOLVED: That, in the light of the information contained in the report now submitted, including Counsel's opinion and the comments now made, the Sub-Committee is satisfied that the application for the registration of Kings Croft as a Village Green, under Section 15(2) of the Commons Act 2006, is valid and that arrangements be made for its determination at a non-statutory local inquiry.

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