

AT A MEETING of the REGULATORY COMMITTEE of the HAMPSHIRE COUNTY COUNCIL held in the Council Chamber at The Castle, Winchester on 29 June 2011

PRESENT:

Chairman:
p Councillor R.C. McIntosh

Vice-Chairman:
p Councillor I. Beagley

Councillors:

a F.G. Allgood	p Mrs A. McEvoy
p Mrs C.A. Bailey	p E.J. Neal
p A. Broadhurst	p F. Pearce
p J.V. Bryant	a R. Price
p C. Carter	p Mrs J. Porter
p M.G. Cooper	p D. Simpson
p B.T. Gurden	p J. Wall
p G.M. Hockley	p J.K. West
a S. James	p Mrs S. Wheale
p A. Joy	

208 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Allgood, James and Price.

209 DECLARATIONS OF INTEREST

Members were mindful that, where they believed they had a personal or prejudicial interest in any matter to be considered at the meeting, they should normally at the time of the debate declare their interest and, having regard to the circumstances described in paragraphs 9, 10, 11 and 12 of the County Council's Code of Conduct, consider whether to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with paragraph 12 of the Code. The declaration should be made at the time of the relevant debate.

210 MINUTES

The Minutes of the meeting held on 27 April 2011 were agreed and signed by the Chairman.

211 CHAIRMAN'S ANNOUNCEMENTS

No announcements were made at this meeting

212 DEPUTATIONS

Members were reminded that they had approved a scheme which involved the amendment of Standing Order 21 to allow Members to ask questions of deputees for clarification of facts on an agenda item. Questions from Committee Members would be asked through the Chairman, who might seek the advice of the Committee's legal and other advisers as appropriate. The Chairman's decision on a question would be final. Any local Members who requested to speak at the Committee might also be asked questions. The Committee were advised that, following the withdrawal of Item 6, seven deputations had been received for this meeting.

213 USE OF BUILDING AS A SUSTAINABLE WASTE MATERIALS RECYCLING FACILITY AT CLARKS FARM, READING ROAD, YATELEY

This Item was postponed for a future agenda

214 APPLICATION FOR REGISTRATION OF LAND KNOWN AS LONGBRIDGE PLAY AREA, BRAMLEY, AS TOWN OR VILLAGE GREEN (APPLICATION NO. VG 243)

Councillor Joy arrived ten minutes late for this item, but felt able to take part as he had only missed a part of the officer's introduction which summarised what was in the Members' reports.

The Committee considered the report of the Director of Culture, Communities and Business Services, which summarised the history of the play area and the application for it to be registered as a town or village green. The Committee were informed that following a public inquiry in 2010 the Inspector appointed by the County Council had recommended that the play area should be registered as a town or village green. Having had some concerns about the quality and accuracy of this report, officers had sought a second opinion from leading Counsel. This second opinion advised that, in the opinion of leading Counsel, the original Inspector had misdirected himself on a point of law and therefore, his recommendation to register the land was unsound. The Committee were advised that Members could either chose to follow the advice of the original Inspector and register the land, follow the advice within the second opinion and reject the application to register the land, or could refer the application to a second public inquiry to reconsider the evidence. Officers recommended the option of a second public inquiry with a different inspector.

The Committee received seven deputations for this item. Vivian Chapman QC spoke on behalf of the landowner and stated that the landowner and the objectors would like a decision to be made and did not want a second public inquiry, which would be time consuming and costly. He asked the Committee to refuse the application because, in his opinion, the evidence did not demonstrate that the applicant had satisfied the legal tests which needed to be met in order to register the land. Mr. Chapman said the Committee had got the clearest possible legal foundation in leading Counsel's advice, to reject the application. Ian Cameron, Judith Watkins, James Watkins and Simon Watts, who were all local residents speaking in favour of the application then made separate deputations. It was stated that the area had been regularly used by residents since the 1970's. Concerns were also raised that the

barrister who provided the second opinion had not visited the area, which contrasted with the extensive investigation and involvement with residents during the public inquiry. James Watkins stated that the village was dissected by a railway line that ran north to south and that there was only one connection between the two halves in the village. He said 85 – 90% of the population in Bramley live to the east of the railway line. The applicant, Cathy Baker, stated that although most of the residents that used the play area lived to the east of the railway, there was use by those residents who lived to the west and they supported the application. Initially she had specified a smaller area of land as a neighbourhood on her application, but as not only residents of Longbridge Road used the play area and she did not want to exclude people from outside the neighbourhood from using the land, she amended her application by specifying the locality of the parish of Bramley as the relevant application area. It was also stated that the landowner was aware that the land was used by the public and allowed residents to continue to have access. Finally, Councillor Keith Chapman spoke in support of the application saying that he knew from personal experience that the play area was used by all residents of Longbridge Road area since 1979 and that as lawyers often disagreed with each other it was possible that another inquiry might result in a different opinion.

During questions of the deputees, the Committee asked about the history of the land and whether the play area had always been there and it was confirmed that a condition of the development of the land of Longbridge Road in the 1970s was that the land in question should be levelled so that it could be made available as a play area. Basingstoke and Deane Borough Council might have chosen to adopt this land as public open space, but this was not done.

The Committee also asked for clarification about the railway line and the locality chosen by the applicant. It was confirmed that the only other access, apart from the railway crossing, between the two halves of Bramley was two to three miles north.

Members agreed that a village green was the most suitable status for the area and that it seemed unreasonable for the application to be rejected because of the change from neighbourhood to locality and covering a larger area. It was proposed and seconded that the recommendation in the report for a second public inquiry be rejected and the alternative recommendation be that the application was accepted and that the land be registered as a Town or Village Green. This was put to the vote;

RESOLVED:

- i) That the application to register land known as Longbridge Play Area, Bramley (Application No. VG 243), be accepted and the land be registered as a Town or Village Green

Voting:

Favour: 17

Against: 1

215 APPLICATION FOR THE ADDITION TO THE DEFINITIVE MAP OF A FOOTPATH FROM BOURLEY ROAD TO THE FORESTERS PUBLIC HOUSE, ALDERSHOT ROAD, IN THE PARISHES OF CHURCH CROOKHAM AND EWSHOTT

The Committee considered the report of the Director of Culture, Communities and Business Services (Item 8 in the Minute Book) which detailed an application to record a public footpath in the Parishes of Crookham and Ewshott.

The Map Review Officer introduced the item and explained that the footpath ran over land that had been owned by the Ministry of Defence (MOD) since 1855. Although most of the area is open to the public, many byelaw signs are in place indicating that public use is with revocable permission and also warning that some areas are not to be used due to public safety considerations. Therefore, the legal requirements of a dedication of public rights at common law have not been satisfied.

RESOLVED:

- i. That the application be refused

Voting:

Favour: 18 (unanimous)