

APPLICATION BY MRS CATHERINE BAKER TO REGISTER

LAND AT LONGBRIDGE ROAD, BRAMLEY

AS A TOWN OR VILLAGE GREEN

SECOND SUPPLEMENTARY REPORT

Preliminary

1. I was previously instructed by Hampshire County Council ('the Council') to make a recommendation in respect of the application dated 1st November 2008 ('the Application') submitted by Mrs Catherine Baker ('the Applicant') seeking the registration of land at Longbridge Road, Bramley ('the Land') as a town or village green pursuant to section 15(2) of the Commons Act 2006 ('the 2006 Act'). The Application was the subject of objections by a company known as Radiotropic Ltd and by Mr John Bell ('the Objectors').
2. Pursuant to my instructions, I held a public inquiry ('the Inquiry') which sat for five days on 26 – 28 April, 21 June and 28 June 2010 at Bramley Village Hall, The Street, Bramley, following which I produced a report dated 14 September, which was subsequently updated ('the Report')¹. Thereafter, I was provided with representations made by the Objectors ('the Representations') which queried various aspects of the Report. As a consequence I provided a further report ('the Supplementary Report') dated 13 October 2010, which addressed those matters raised in the Representations.
3. I have now been provided with further representations submitted on behalf of the Objectors ('the Further Representations'), which comprise a short set of submissions drafted by solicitors acting for the Objectors and a document drafted by Mr John Bell entitled 'Comments on additional statements in Inspectors Report' ('the Bell Document').
4. The submissions essentially comprise an assertion that my record of the evidence of the witnesses who appeared before the Inquiry is inadequate and does not comprise an accurate representation of the evidence given. The Bell Document seeks to fulfil various

¹ It subsequently became apparent that I had neglected to include the evidence of four of the Applicant's witnesses. Accordingly I provided a revised version of the Report, dated 28 September 2010, which included the evidence of these four witnesses. As such, the total number of the witnesses called by the Applicant was correctly recorded as 26 (rather than 22, as erroneously noted in the earlier version of the Report).

functions, in that it purports to record evidence given by four of the Applicant's witnesses, to provide comment on the conclusions to be drawn from that evidence and to comment on the inadequacy of the Report in dealing with that evidence.

5. I am now asked to comment on these Further Representations.

The Further Representations

6. I do not accept that the Report is deficient, and that the record of the evidence given at the Inquiry which it contains is "inaccurate" as alleged.
7. For the avoidance of doubt, those sections of the Report in which the evidence is recorded are not intended to record the totality of the evidence given. Rather they provide a summary of the various witnesses' evidence, in the manner described at paragraph 14 of the Report.
8. Having regard to the Bell Document, I do not intend to respond individually to each of the matters raised by Mr Bell. However, I make the following comments.
9. In various instances, I simply do not accept Mr Bell's record of the evidence nor the conclusions which he has drawn in respect of it. By way of example, as regards his first criticism (made in respect of an aspect of Mr Malcolm Green's evidence), I note that the witness did not describe the event in question as a "*Jubilee celebration*" as stated by Mr Bell, but a street party held in respect of one of the royal weddings. Further, whilst Mr Bell appears to query whether the weather was indeed poor on the day of the party, I note Mr Green's evidence as having been that "*the rain was torrential*". Having observed and listened to him giving evidence, I accepted his testimony on that point, and did not consider the fact that some children's games were played in the road in the course of the day as being materially inconsistent with his account of the conditions. Further, although I am not entirely clear as to Mr Bell's meaning, I do not consider that this in any sense "*proves no use of subject land*" as he contends².

² If indeed Mr Bell means to suggest only that there was no use of the Land in connection with the street party, then I accept this proposition. Certainly in reaching my conclusion as to the merits of the Application I proceeded on the basis that the Land was not used for this purpose. However, if indeed Mr Bell relies on the

10. In other instances, Mr Bell's comments simply seek to re-open matters which I have already discussed in the context of the Report, and in respect of which I have reached considered conclusions. By way of example, as regards his first criticism made in respect of Mrs Sharon Barrett's evidence – *"Mrs Cathy Baker again pressuring locals by providing written statements for them to sign"* – and his second *"SB confirms in witness box that, that [sic] the words in her statement, she "took it down over the phone from Cathy Baker"*", I make the following observations.
11. Leading Counsel for the Objectors queried the credibility of the Applicant's witnesses both in cross examination and in his closing submissions. However, I do not accept the position of the Objectors in respect of this issue, and have already set out my views in paragraph 245 of the Report. Having heard evidence from Mrs Baker, Mrs Barrett and indeed the remainder of the witnesses who appeared before the Inquiry, I simply do not agree with Mr Bell's contention that Mrs Baker pressured people into giving testimony. Certainly, I did not hear/read evidence at the Inquiry which would justify such a conclusion. I readily accept that Mrs Baker was the 'driving force' behind the Application, and that she provided local people with a 'template statement' for them to 'fill in'. However, I do not regard such conduct as in any sense coercing witnesses and, having observed the demeanour of the Applicant's witnesses when giving evidence I was satisfied as to their honesty and credibility.
12. Further, as regards the position of Mrs Barrett in particular in this context, I do not regard Mr Bell's note of the evidence as accurate. I recorded Mrs Barrett's evidence on this matter as being that she *"did have help with wording"*, insofar as her husband helped her *"with dates"*, and Mrs Baker helped by giving her the *"wording for the first paragraph"*³. Mr Bell's statement (as recorded in paragraph 10 above), suggests that Mrs Barrett conceded that Mrs Baker had dictated the entirety of her statement to her – a contention that is simply inconsistent with the evidence given.
13. In other instances, I do not accept Mr Bell's suggestion that I have omitted important evidential matters in my Report. By way of example, in the context of Mr John Cooper's

absence of use of the Land during the street party as demonstrating that the Land was not used for lawful sports and pastimes generally, then I wholly disagree with his contention.
did not consider that

³ I expressly record these matters at paragraph 167 of the Report.

evidence, Mr Bell states⁴ "*The Inspector later questions JC saying 'you saw the gate going up....did you think people were trying to stop you getting on the land? JC replied 'Yes, without a doubt' – Not mentioned in the Inspectors Report*". Whilst it is right to say that I have not recorded the particular exchange between myself and Mr Cooper, I consider that the Report fairly recorded the latter's evidence in respect of this issue, namely the purpose of the erection of the gate. Indeed, I note that paragraph 178 of the Report reads: "*He recalled seeing the gate being put up at the LR Entrance. Despite the fact he had never seen it padlocked, it had been his impression that the purpose of the gate was "obviously to exclude people going on"*". In so stating in the Report, I have quoted the answer given by Mr Cooper in answer to a question put to him in cross-examination. Given that the answers which Mr Cooper gave in respect of my questions regarding this issue were consistent with those which he gave to Leading Counsel for the Objectors, I did not consider it necessary to record them in the Report since to do so would have served no purpose. As is clear from the Report, I was aware of Mr Cooper's view as to the purpose of the installation of the gate and, contrary to Mr Bell's suggestion, that view was reflected in my summary of his evidence.

14. Further, in some instances, I do not accept that the omission of some matters from the Report was inappropriate. By way of example, the second bullet point criticism made in respect of my account of Mr Malcolm Green's evidence, relates to use of the rope swing. It is correct to say that I have not recorded as part of my summary of his evidence, Mr Green's comments in relation to the rope swing. However, such omission reflects my view that activities in/over the dry ditch could not, as a matter of law, contribute towards the Applicant's case for registration, since they took place on/over land outside of the Land subject to the Application. I have already clarified this matter at paragraphs 9-12 of the Supplementary Report.
15. Leaving to one side the individual criticisms made of the Report to look at matters more generally, I must emphasise that my record of the testimony of the Applicant's (and indeed the Objectors') witnesses necessarily has regard to the totality of their evidence. That is to say that it reflects both any written evidence which those witnesses produced and also oral evidence given in answer to questions put in examination in chief, cross-examination, re-examination and indeed my own questions. As such, the citation of a particular exchange

⁴ In the penultimate bullet point.

between advocate and witness in isolation is not necessarily helpful or appropriate since it may not reflect other evidence given in answer to other questions posed on the same topic by the advocate (or indeed the Inspector).

16. In this context, I note by way of example Mr Bell's recorded exchange between Leading Counsel for the Objectors and Mr Malcom Green regarding the question of the tree trunks placed across the pathway providing access to the Forge Field Estate⁵. Mr Bell records the exchange in the following terms: *"In respect of the logs VC asks: 'are you saying they (the logs) were put in place to block the path?' MG replies: 'well there are 3 logs across the path and it blocks the path'. This confirms the intention to block the access and puts him on notice – Not mentioned in the Inspector's Report"*. Not only is this exchange not wholly consistent with my note of the evidence, more importantly it ignores other answers given by Mr Green to questions on the same topic. Indeed, it ignores the latter's evidence that he was *"aware of the logs"*, but was *"not aware of what their purpose was"*, albeit he accepted that blocking the pathway *"could be the purpose"* for which the logs were installed.

Concluding Remarks

17. I am satisfied that my record of the various witnesses' evidence accurately represents the testimony given in all material respects.
18. Further, I note that at various points in the Bell Document Mr Bell expresses doubt as to the credibility of the evidence given by one or other of the Applicant's witnesses and contends that I should have reached a different conclusion in respect of it to that set out in my Report. However, whilst I respect Mr Bell's right to disagree with my assessment of the evidence, I am content that the conclusions I have reached are justified, and that the recommendation I have made to the Council is robust.

Alexander Booth

10 December 2010

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⁵ See penultimate bullet point on page 1 of the Bell Document.

