

KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Kingsnorth Sports Pavilion, Church Road, Kingsnorth, Ashford TN23 3EF on Tuesday, 15 October 2013.

PRESENT: Mr M J Harrison (Chairman), Mr S C Manion (Vice-Chairman), Mr M Baldock, Mrs V J Dagger and Mr T A Maddison

ALSO PRESENT: Mr M J Angell and Mr J N Wedgbury

IN ATTENDANCE: Ms M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

16. Application to register land at Grasmere Road in Ashford as a new Village Green *(Item 3)*

(1) The Panel visited the application site before the meeting. This visit was attended by Mrs L Dash (applicant).

(2) The Commons Registration Officer began her presentation by saying that the application had been made under section of the Commons Act 2006. It had been accompanied by 72 user evidence forms and other supporting documentation.

(3) The land in question had been given to Ashford BC in 1974 by Rush and Thompkins who had built the houses around the land. The local residents had used it as a recreational area and community hub.

(4) The Commons Registration Officer confirmed that Ashford BC had been consulted in its capacity as the landowner. In response, the Borough Council had stated that it would not be opposing the application.

(5) The Commons Registration Officer said that registration could only take place if each of the legal tests was met, even though the landowner was not opposing the application. The first test was whether use of the land had been "as of right." She said that access was free and unhindered and that there was no evidence of use having been with permission. She therefore considered that this test had been met.

(6) The Commons Registration Officer replied to a question from Mr Manion by saying that the "No Golf" sign that had been put up by the Borough Council certainly disqualified that particular activity from being considered as a lawful sport or pastime. It could not, however, be used as evidence that use of the site had been "as of right" because case law had established that any such sign had to communicate to the local inhabitants that the landowner was giving them permission to use the land. A statement that golf could not be played on the land did not serve this purpose.

(7) The Commons Registration Officer said that the user evidence forms had described a wide range of activities. It was therefore clear that the land had been used for lawful sports and pastimes.

(8) The Commons Registration Officer said that the town of Ashford was a qualifying locality and that Bockhanger with its primary school, shops and community centre, qualified as a neighbourhood within the locality. It was also clear that 71 people from this neighbourhood had personally used the site. This meant that use had been by a sufficient number of local inhabitants to indicate to the landowner that the land in question was in general use. She had therefore concluded that use had been by a significant number of inhabitants of a neighbourhood within a locality.

(9) The Commons Registration Officer concluded her presentation by saying that the final two tests had also been met as use of the land had continued for more than twenty years up to and beyond the date of application. She recommended that, as all the legal tests had been met, registration should take place.

(10) Mrs L Dash (applicant) thanked the Commons Registration Officer for her helpfulness in guiding her through the process. This help had been invaluable to her as she had never previously been involved in any form of official public activity.

(11) Mr J N Wedgbury (Local Member) congratulated Mrs Dash on her work in preparing the application. He commented that he was delighted to see this area of land being designated as a Village Green.

(12) Mr S C Manion moved, seconded by Mr M Baldock that the recommendations of the Head of Regulatory Services be agreed.

Carried unanimously

(13) RESOLVED that the applicant be informed that the application to register land at Grasmere Road in Ashford in Ashford as a new Town or Village Green has been accepted, and that the land subject to the application be registered as a Village Green.

17. Application to register land at Riverside Close at Kingsnorth as a new Town or Village Green

(Item 4)

(1) The Panel visited the application site before the meeting.

(2) The Commons Registration Officer began her presentation by saying that the application had been made by Kingsnorth PC under section 15 of the Commons Act 2006. It had been accompanied by 22 user evidence forms and other supporting documentation.

(3) The land in question was owned by Ashford BC. The Borough Council had provided written confirmation that it had no objection to the application.

(4) The Commons Registration Officer moved on to consideration of the legal tests, which all needed to be met if registration was to take place. She said that there were no restrictions on entrance to the site and that there was also no evidence that

the landowner had ever granted permission for people to do so. Use of the land had therefore been “as of right.”

(5) The Commons Registration Officer then said that the user evidence forms had described a range of activities. The land in question had therefore been used for the purposes of lawful sports and pastimes.

(6) The Chairman noted that Ashford BC had put up some swings on the land. He asked whether the Borough Council would continue to be responsible for them. The Commons Registration Officer confirmed that this would be the case.

(7) The Commons Registration Officer said that use had been by residents of the neighbourhood of Kingsnorth Village within the locality of Kingsnorth Parish. Half the residents of Riverside Close in Kingsnorth Village had provided evidence that they had used the land. This would have been enough to indicate to the landowner that the application site was in general use by the local community. Accordingly, the site had been used by a significant number of inhabitants of a neighbourhood within a locality.

(8) The Commons Registration Officer concluded her presentation by saying that the final two tests had also been met as use of the land had continued for more than twenty years, up to and beyond the date of application. She therefore recommended that, as all the legal tests had been met, registration should take place.

(9) Mr Manion asked whether the fact that Ashford BC had put up swings on the land could be seen as giving implied permission. The Commons Registration Officer replied that this question had been addressed in the *Beresford* case. The court had ruled that putting up equipment to encourage use did not communicate a permission which could be revoked. The same principle applied in respect of this application.

(10) Mr J N Wedgbury addressed the Panel in his capacity as a Member of Kingsnorth PC. He thanked the Commons Registration Officer for producing a comprehensive report and explained that the long term plan was for Ashford BC to pass the land to Kingsnorth PC and protect the access to it.

(11) Mr M J Angell addressed the Panel as the Local Member. He said that the history of Ashford BC’s plans for the land in question and any future plans it might have for land ownership were entirely irrelevant. He asked the Panel to concentrate entirely on the question of whether the legal tests had been met.

(12) Mr M Baldock moved, seconded by Mrs V J Dagger that the recommendations of the head of Regulatory Services be agreed.

Carried unanimously

(13) RESOLVED that the applicant be informed that the application to register the land at Riverside Close at Kingsnorth as a new Village Green has been accepted and that the land subject to the application be formally registered as a Village Green.