

KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Eliot Room, Thanet District Council, Cecil Street, Margate on Tuesday, 19 October 2010.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr J A Davies, Mr S J G Koowaree and Mr R F Manning

ALSO PRESENT: Mr R A Pascoe

IN ATTENDANCE: Mr C Wade (Countryside Access Principal Case Officer), Miss M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

15. Application to register land at Montefiore Avenue, Ramsgate as a new Town Green.

(Item 3)

(1) Members of the Regulation Committee had visited the application site prior to the previous Panel meeting on 6 February 2009.

(2) A petition from "Hands off Our Tennis Courts" (HOOT) was submitted to the Panel. It requested approval for the Montefiore Village Green application and was signed by 1514 members of the public.

(3) The Panel noted that the land was known locally as "the Old Putting Green" rather than as the "Old Bowling Green." The Panel later also accepted Mrs Fenner's evidence that the site had been acquired by Ramsgate Borough Council in 1948 and that ownership had transferred to Thanet DC in 1973.

(4) The Public Rights of Way Officer introduced her report. She explained that it had previously been considered by the Panel on 6 February 2009 where it had been resolved to submit it for examination by a Non-Statutory Public Inquiry. The Inspector had submitted a 150 page report which had concluded that the application should be rejected on three grounds: the use of the application site had not been "as of right" for the whole of the twenty year period; use of the site had not been by a significant number of the residents of the locality; and in relation to the triangular piece of land adjacent to the tennis courts, use had not consisted of lawful sports and pastimes.

(5) Mr M Matthews, the applicant addressed the Panel in support of the application. He provided the Panel with a number of photographs of the site in support of the points made by him and by supporters of the application. He said that he had lived opposite the site from 1978 to 2008. He wished to make a number of points concerning the operation of the Non-Statutory Public Inquiry.

(6) Mr Matthews said that much of the case had involved interpretation of evidence. Most of the Objectors' witnesses had been Officers from Thanet DC, who had not been able to provide documentary evidence in support of their assertions. Witnesses for the applicants had all been lay people (some of them very elderly) who had been unaware of the precise nature of the English language used by Thanet DC's Barrister. Two witnesses had decided that they would rather not face questioning by a Barrister. Those who had given evidence had later said that they would never do so again.

(7) Mr Matthews said that there were improvements that could be made to the evidence gathering stage of Non-Statutory Public Inquiries. For example, the adversarial nature of the proceedings could have been mitigated if the Inspector had collected statements from people in their homes.

(8) Mr Matthews then said that he disagreed with the Inspector's view that there had not been a significant number of residents within the locality using the site. In order to comply with the need to identify a recognised administrative division, he had chosen the Ecclesiastical Parish of Holy Trinity in Ramsgate. However, since the border of this parish ran very close to the site boundary, a number of people who would have testified that they had used the site could not be called to give evidence to the Inspector. He believed that to use recognised administrative divisions was unnecessarily restrictive when attempting to define a locality or a neighbourhood within a locality.

(9) Mr Matthews then said that the question of the purpose for which Thanet DC had acquired the land had not become a significant one for the Inspector until the fifth day of the Inquiry. He suggested that, in future, a question of fact of this nature should be investigated before the Inquiry opened.

(10) Mr Matthews concluded his remarks by thanking the two Officers, Mr Wade and Ms McNeir for all their helpful and impartial advice during the entire process.

(11) Mr A Poole, a local District Councillor spoke in support of the application. He said that evidence gathered had given good grounds to conclude that the fence had been in a state of disrepair and long-term neglect during the qualifying period from 1987 to 2007. There would therefore have been no need for the residents to use force to gain access to the site. He asked the Panel to consider the photographic evidence of a very mature tree on the fence line as well as the metal straining post which leant towards Montefiore Avenue, suggesting that there had not been a fence there for a long time.

(12) Mr Poole then said that although the Inspector had concluded that people had needed to squeeze through a gap in the fence in order to get onto the land, this was contradicted by the need for the hole to be sufficient for a gang mower to gain admission. One of the photographs showed the level of tarmac rising to the ground level of the site. He believed that this strongly suggested that the gang mowers had used the gap entrance. In any case, they could not have entered the bottom part of the site from the putting green area because the entrance from that part of the site was too narrow for them ever to have done so.

(13) Mrs M Fenner, a local District Councillor said that the number of signatures on the petition showed the level of local support for town green status to be granted to

this piece of land. She questioned the reasons for Thanet DC's decision to spend a large amount on resisting the wishes of the local population. She believed that the local residents who had given evidence had been made to feel that they were doing something wrong and that some of them had been made to say things against their understanding. An example of this was the term "squeezing through" which would not have occurred to people without being suggested to them as the gap in the fence was very wide.

(14) Mrs Fenner also asked the Panel to note that the Inspector's comment about her having no personal knowledge of the site had been irrelevant. Her statement had been given in her capacity as the local Councillor in order to rebut the statement given by an Officer at the Inquiry that there had been vandalism on the site.

(15) Mr P Verrall (Estates Manager – Thanet DC) spoke in opposition to the application. He said that the site had been identified by the District Council as one where it would be appropriate to provide new tennis courts with better lighting. Not all the evidence presented by the District Council had been provided by Officers. The Secretary of the neighbouring Croquet Club had been present to say that the site had been secured at its top end. A fencing contractor had recalled putting the fence up. Unfortunately, because the Council only retained paper records for a short space of time, and the contractor who had put the fencing up had gone out of business it was impossible to provide the documentary evidence requested. Nevertheless, the recollection of those who had given evidence on behalf of the District Council was that the fencing had been erected in the 1990s.

(16) On being put to the vote, the recommendations of the Director of Environment and Waste were unanimously agreed.

(17) RESOLVED that for the reasons set out in the Inspector's report dated 29 May 2010, the applicant be informed that the application to register the lands at Montefiore Avenue at Ramsgate has not been accepted.