

ASSESSMENT OF EVIDENCE

APPLICATION TO REGISTER LAND TO THE REAR OF
THE ROYAL OAK PUBLIC HOUSE , MAIN STREET, LONG
BENNINGTON AS A TOWN OR VILLAGE GREEN UNDER
THE PROVISIONS OF SECTION 15(1) COMMONS ACT 2006

Evidence submitted to support the application

1. By the applicant

Documentary Evidence

The applicant as part of their application submitted documentary evidence.

Photographs

Of the land-

A photo showing a goal post set in a grassed area taken from the gate way. It does not show anyone using the land and it is not date/time stamped. It does not show any evidence of public usage of the land.

Notice of public usage

The sign states that "Customers must keep their dogs on leads at all times. Children play in these gardens, please keep it clean". The staples holding the sign in place are rusty; this would indicate that it has been in situ for a while. The wording of the sign would indicate that the use of the land is with the landowners consent.

Steam Rally

This shows a small steam engine, caravans and vans parked on the land. It does not show any public usage of the land.

Other documentary evidence

Coronation programme dated 2 June 1953

This has been submitted as it is alleged that it shows that the land was used by the public. The programme states at page 2 that the "Children's sports on the green by kind permission of Mr W B Bingham". This would indicate that the use of the land for this occasion was with the permission of the landowner.

Advert from the Gonerby Gazette dated April 2013

The advert states that the pub's amenities include a large beer garden and games paddock. It is alleged that this indicates that the area is open for the public to use.

User evidence

To support the application the applicant submitted 5 documents from members of the public, 1 statutory declaration and 4 user evidence forms.

1. Michael Walker

In this statutory declaration Mr Walker states that he has lived in the village for 31 years and has taken part in or has been concerned with a number of events on the land. He has attended firework events, gymkhanas, steam fairs, car club events, caravan rallies and football games and the circus has occupied the site. Events were common from 1970's until 1993 with the previous landlords. Most events were free to the public.

He states that he has observed children playing on the land as there is an open gate at the entrance to the land. There is also a brick skittle alley that has been used for pub games evenings. He also believes that the area of land is a valuable community asset.

Mr Walker states that he has attended events on the land during the 1970's to 1993, he does not state that he still uses the land and his evidence indicates that the events may have been organised by the former landlord of the pub. If this is the case, any use of the land would have been with the permission of the owner.

He states that a circus has occupied the site; any attendance at the circus by the public would have been with payment and therefore cannot be regarded as public usage. For the circus to be located on the land they would have required the landowners or tenants permission to do so.

He states that he has historically witnessed children playing on the land; Mr Walker does not state that he recognises or knows the children; this may indicate that they may not be from the village but may be children of parents who are visiting the pub. Therefore their use would have been with the permission of the landowner. He also indicates that it was historic usage and this would indicate that is not being used currently by children.

He also states that the land had a skittle alley on it and that it was used for pub games, this evidence indicates that the sole use of the building was for pub games, this use would have been with the permission of the landlord and therefore may not be regarded as public usage.

Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green nor are they able to use any evidence relating to the barn as a village green only relates to land.

2. Ruth Tytherley

The user evidence form of Ms Tytherley indicates that she has only known the land since 2005. She lists the activities that she is aware that have taken place on the land which include a miniature steam rally, classic car meets, football games, children's games, dog walking, foraging, social meeting place, walkers, wildlife enthusiasts, paddock, grazing land, bird spotting and camping. She states that the use of the land is a combination of yearly, monthly (in the summer) weekly and daily. She states that during the spring and summer the land is in constant use especially after working hours and at weekends.

She also comments that the land would be a loss to the village as it is the last remaining piece of open land. Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

Ms Tytherley has not stated in her evidence that she uses the land, how often she uses it or for what activities. Most of the events that she states to have taken place on the land could be with the owner's consent or permission i.e. the steam rally, classic car meets and camping. The use of the land as a paddock, for grazing, social meeting place may not fall under category of lawful sports or past times.

It is noted that the form has not been dated.

3. G Tate

The user evidence of Ms Tate states that she lives in Calverton. In order to satisfy the criteria the people using the land should be "an inhabitant of the locality", which is stated on the form to be the parish of Long Bennington. Ms Tate lives approximately 19 miles from Long Bennington.

She states she has known the land since 2010 and that the land is used for steam rallies, football matches and a children's play area. These activities may all be with the permission of the landowner or landlord.

She does not state that she uses or has used the land; how often or what activities she takes part in on the land. She does states that she was made aware that the land was used historically; this would indicate that the land is not in current use.

She states that the land is used a lot in the summer. She states that she values the land as being open for use. Unfortunately, the County Council

are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

It is noted that the form is not signed nor dated by Ms Tate.

4. Steve Longden

The user evidence form of Mr Longden states that he has known the land since moving to the village in 1992 and that he believes that the land was in use then for village activities.

He states that the land has been used for small summer fetes, firework displays, football fund raising days, steam rallies, caravan rallies, live music and is an open space where children can play. The uses that he lists are all ones that may have been with the owners or landlords permission.

He states that the land is used by children all year especially during the spring and summer and at weekends.

He does not state that he uses the land and neither does he state that his use is still continuing.

He comments that the land would be a loss to the village. Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

It is noted that he has not dated the form.

5. Adele Thrush

In her user evidence form Ms Thrush indicates she has only known the land since the summer of 2012 and the land is used for a steam rally which occurs once a year. She does not state that she uses the land. The use claimed may be with the owner's consent or with their permission.

She states that the jubilee event would have benefited from extra space and that a mayday event with dressed ponies would be nice, this is not evidence that the land is or has been used by the inhabitants for lawful sports and past times.

She also comments that it would be a loss that green space is needed. Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

It is also noted that the form is not dated

2. **Evidence submitted by landowner**

The landowner has submitted photographs of a sign stating "polite notice – no through access private property patrons only". The photograph shows that it is secured in its location with drawing pins; these however appear to very new which would indicate that the sign has only recently been installed. They indicate that similar signs have been in similar location for the previous 4 years but have not submitted evidence to show this.

They have also submitted statutory declaration from 3 individuals.

1. Anthony Gordon Jacobs

Mr Jacobs is the current tenant and landlord of the Royal Oak and has held this position since 2011. He claims that upon taking over the pub he erected signage on the gate to the land stating that the land was private, he claims that this sign was removed and that he replaced it in 2014. He states that the use of the land is by patrons who do so with his permission. He confirms that the use of the land for community events has been with his consent. He stated that he erected the goal posts on the land for the enjoyment of the children of patrons.

He also forwarded copies of the land registry documentation that showed who the landowners are.

2. Debbie Reynolds

She forwarded photographic evidence from the internet to show that the classic car displays used the front of the property. In addition minutes of the Parish Council.

3. Justin Richard Jocelyn Thomas

He confirms that he is a consultant for the landowner and that he attended the site in September 2015 and submitted photographs taken on that date showing the layout of the land, signage and that the site is overgrown.

Additional comments made by the applicant.

As part of the process the applicant was asked if they wished to make any comments on the evidence submitted by the objectors, on 28 October they submitted a letter. As part of that letter they included a photograph showing a gateway that is alleged to belong to an adjacent

cottage that has access to the land, a note regarding Mr Baggaley and his life, a photograph showing a garden fete in 1960's.

It should be noted that the additional evidence submitted cannot be considered in relation to the claim as it does not show that the use of the land was by the public as of right. The photograph of the garden fete is outside the time period being claimed.

Mandy Wood

7 December 2015

Senior Solicitor

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