



**PLANNING AND REGULATION
COMMITTEE
2 SEPTEMBER 2019**

PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)

Councillors D Brailsford, L A Cawrey, Mrs J E Killey, D McNally, Mrs A M Newton, Mrs M J Overton MBE, N H Pepper, S P Roe, P A Skinner, H Spratt, M J Storer and C L Strange

Councillor R H Trollope-Bellew attended the meeting as an observer

Officers in attendance:-

Dave Clark, Jeanne Gibson (Programme Leader: Minor Works and Traffic), Neil McBride (Head of Planning), Martha Rees (Solicitor) and Rachel Wilson (Democratic Services Officer)

17 APOLOGIES/REPLACEMENT MEMBERS

Apologies for Absence were received from Councillor T R Ashton.

The Head of Paid Service reported that having received notice under Regulation 13 of the Local Government (Committees and Political Groups) Regulations 1990, she had appointed Councillor B Adams as a replacement member of the Committee in place of Councillor T R Ashton for this meeting only.

18 DECLARATIONS OF MEMBERS' INTERESTS

Councillor I G Fleetwood advised that he had received a telephone call from Councillor David Shelton in relation to the procedure for speaking at the meeting in relation to agenda item 5.1 and he advised him accordingly. It was believed that other councillors on the Committee had received similar telephone calls.

**19 MINUTES OF THE PREVIOUS MEETING OF THE PLANNING AND
REGULATION COMMITTEE HELD ON 29 JULY 2019**

RESOLVED

That the minutes of the meeting held on 29 July 2019 be signed by the Chairman as a correct record.

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20 TRAFFIC ITEMS

20a Deeping St James, Rycroft Avenue - Proposed Waiting Restrictions

The Committee received a report which set out objections received to the proposed waiting restrictions at Rycroft Avenue, Deeping St James which were publicly advertised from 16 May to 13 June 2019.

The report outlined the existing conditions and the objections received as well as the comments of officers on the objections received.

Members were provided with the opportunity to ask questions to the officers present in relation to the information contained within the report and some of the comments made included the following:

It was queried how many objections there had been and what the reasons for objecting had been. Members were advised that two objections had been received and these were in relation to concerns that parking would move further down Rycroft Road and would start to affect residents.

- One member commented that they did not have an objection to this following the modification that had been made.
- It was noted that the local member was in support of this.
- One member highlighted that in her area, a lot of people seemed to ignore junctions, and would be pleased if there could be similar restrictions in place in her area.

On a motion by Councillor Mrs A M Newton, seconded by Councillor I G Fleetwood, it was:-

RESOLVED (unanimous)

That the Committee approve the amendment to the proposed 'No Waiting at Any Time' restriction as a minor modification and agreed that the objection to the proposed limited waiting bay be overruled so that the order could be confirmed.

21 OTHER REPORTS

21a Application for Village Green Status on Land at Millfield Road, Market Deeping

The Committee was requested to consider the report of the inspector and make a decision on the application to register land on Millfield Road, Market Deeping as a town or village green.

Members were advised that the purpose of the report was to present the recommendation of the Inspector further to a public inquiry held between the 8 – 11 January 2019, so that the Committee could determine the application for land at

Millfield Road, Market Deeping ("the land") to registered as a Town or Village Green under section 15 of the Commons Act 2006 ("the 2006 Act").

An objection was received from the landowner, Lincolnshire County Council, and therefore it was determined by the Commons Registration Authority (LCC) that a non-statutory inquiry should be held and Mr Martin Edwards, Barrister at Law, was appointed to act as the independent inspector.

It was reported that in order for the land to be registered as a town or village green the applicant had to demonstrate on the balance of probabilities that:-

- A significant number of the inhabitants of a locality, or of any neighbourhood within the locality
- Have indulged as of right
- In lawful sports or past-times on the land
- For a period of at least twenty years and
- That this use continued to the date of the application.

The report highlighted that it was necessary that all of these criteria were met before a registration authority could register the land as a town or village green. Therefore if any one element was not satisfied, then the application must be rejected.

Councillor R H Trollope-Bellew was in attendance and spoke as the local councillor and made the following comments:

- She was the local member for Market Deeping. The concerns of the residents over the last 18 months had been considerable.
- The Deepings Show had been taking place for about 75 years and had been on this site since before the bypass was built (possibly the 1960's) and was a very useful addition to the local area.
- The concern was that this space was being removed and it was one of the few places of green space that residents could access, take their children, walk their dogs. Residents felt free to use the area as they wished.
- Resident's concerns about the signage were realistic as it seemed like it had been put up as a last minute way of telling people that the field should not be walked on.
- Things did change when travellers arrived on the site, however residents continued to use the site.
- For good governance, it was suggested it would have been better if this had been passed to a different authority to make the decision.

The Committee was advised that the County Council was the landowner and the officers dealing with the application had appointed an independent inspector in accordance with the ordinary statutory procedure. Members were provided with the opportunity to ask questions to the officers present and the following points were noted:

- It was understood that it was not in the Constitution for anyone other than the officer presenting the report to speak, and it was queried whether the

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Chairman had discretion on whether to allow anyone else to speak in relation to the application (other than the Committee). It was noted that the Chairman had set out at the beginning of the item how he planned to deal with this item. Members were reminded that a public inquiry had taken place and the comments made were clearly represented in the report. It was also noted that the Chairman had exercised his discretion by stating that if there was a question that the officer presenting the report was unable to answer, it would be directed to Mandy Withington (Solicitor from Legal Services Lincolnshire representing the objector) and also Mrs Pamela Steel (Applicant).

- Councillor Spratt requested that his disagreement with the applicant not being able to speak be recorded.
- One member commented that they often travelled past the field and it looked like was two separate fields, and it was queried whether the Show used the whole site or if it was confined to one part of the site. It was confirmed that the Show made use of both sections of the field and the entrance was located at entrance B on the plan.
- It was noted that a crop was grown in the field and it was queried whether this would still be allowed if it became a village green. Members were advised that residents would have right to use it for sport and lawful past-times. The field was currently used for the collection of hay and it was clarified that hay was a crop. If this land was registered as a village green, the farmer would not be allowed to harvest the hay.
- Officers reported that they were not aware of any arable crop being grown in the field.
- It would be the responsibility of the landowner to maintain the land.
- One member commented that they did not question the integrity of the solicitor or Traffic Manager and accepted that an independent inspector had been used, but it was recommended that the Committee accepted the Inspector's recommendation. However, it was commented that members were not bound by the Inspector and could take a different view. It was confirmed that the Committee was being asked to accept the recommendation of the Inspector, but it was not bound by the Inspector's report. However, if the Committee chose to go against the recommendation, it would need to provide reasons for this as the decision would be open to legal challenge.
- It was commented that it was very difficult to get a piece of land registered as a village green or open space. This applicant had successfully provided evidence to meet many of the aspects required. These residents had proven that they had used this area for over 20 years. However, members were reminded that it was necessary for all the criteria to be met before land could be registered as a village green.
- It was commented that almost all of the trigger points had been met, but it seemed that the show had a very informal attitude to charging an entrance fee, and any money raised was given to charity.
- It was proposed and seconded that the land be registered as a village green and the recommendation of the Inspector should not be accepted.
- It was subsequently proposed and seconded that the recommendation in the report be accepted.

- It was commented that if in order for land to be registered as a village green all the criteria needed to be met, as all the criteria in this case was not met, one member commented that they could not put forward a reason for it to be overturned.
- It was queried whether there were any other village greens in the area and if there had been any interest in registering this space as a village green before 2017. The Chairman suspended standing orders to allow the Local Member to respond to this query. The Local member advised that there were other village greens in Market Deeping, but not many considering the population.
- It was queried whether, if this application was granted, would the value of the land as an asset, be reduced. Members were reminded that the statutory test was the five bullet points set out in the report and these were the only criteria to be taken into consideration.
- It was queried whether this could be deferred or if there was a case for registering a smaller part of the land. Members were reminded that they could only deal with what was in front of them. It was believed that the Committee did have the discretion to award a smaller piece of land, but it would still need to meet the same five criteria.
- In the report the Inspector advised that the one aspect the Committee may come to a different view was in relation of the signage. In respect of the other criteria, the inspector was very clear on whether the condition had been met or not.
- It was clear that the organisers of the Show had been given permission every year to use the land.
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As a motion to not accept the recommendation and therefore register the land as a village green had been proposed by Councillor Mrs M J Overton MBE and seconded by Councillor Mrs J E Killey, there was a need for reasons to be put forward as to why the Committee should support this. Reasons were put forward as follows:

- Paragraph (a) of the criteria – a large number of residents had been able to demonstrate that they used the area, which was considered to be a significant point.
- Paragraphs (b), (c) and (d) were demonstrated as set out in the report.
- Paragraph (e) the signs were not appropriately put up, and so should be discounted.
- Paragraph (f) people were still able to use the land and were accessing the land without paying.
- It was believed that the conditions had been met and that the right decision was to register it as a village green.

Upon being put to the vote, the motion was lost with 4 votes in favour, 8 votes against and 2 abstentions.

The vote reverted to the substantive motion, and on being moved by Councillor S P Roe and seconded by Councillor D Brailsford it was:-

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RESOLVED (7 votes in favour, 4 votes against and 1 abstention) (Councillor Mrs M J Overton MBE wished it to be recorded that she voted against this motion)

That the Committee accept the recommendation of the Inspector and reject the application to register as a town or village green the land at Millfield Road, Market Deeping on the grounds that the statutory criteria for registration under section 15 of the Commons Act 2006 had not been satisfied.

The meeting closed at 11.35 am