



Minutes

Name of meeting	APPEALS SUB COMMITTEE
Date and time	WEDNESDAY, 23 OCTOBER COMMENCING AT 10.00 AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Colin Richards (Chairman), John Howe, Steve Stubbings
Officers Present	Jon Baker, Catherine Chalkley, Helen Miles, Jerry Willis

15. Minutes

The Minutes to the previous meeting was reviewed and it was:

RESOLVED:

THAT the minutes of the meeting held on 2 October 2013 be agreed.

16. Declarations of Interest

There were no declarations received.

17. Proposed registration of Land at The Point and Silver Sands, Bembridge, as a Town or Village Green

Members of the committee received a report on an application that was made by a Mrs M Chappell on 14 September 2001, following the applicants claim that the land had become a Town or Village Green on 1 August 1990 by virtue that there had been actual use of the land by the local residents for lawful sports and pastimes as of right for a period of no less than 20 years between 1970 and 1990 and that such use continued. The application was supported by 109 statements in support.

The area of land to be registered was broken down into sections, A-F inclusive, and G, H and J.

Members heard from the applicant's representative and objectors / landowners who attended the hearing.

The applicant accepted that Areas A through to F did not meet the criteria for registration and had previously agreed an amended plan excluding these areas.

In relation to Area J, Members were made aware that a small area of land shown hatched black on plan A4 in Appendix B was objected to, on the basis that this had been used as a dingy park by the Sailing Club. This objection was considered within the report to the committee together with the view of the objector. There was some debate as to whether this use related to the relevant time period ie 1970 to 1990 as leases for the use of the land post date that time. There was also a discussion as to whether or not there was a fence in this location of Area J but there was no evidence that this was the case during the relevant time period. Information was received from several objectors that the hatched area was underwater during the relevant time and could not have been used as was suggested. Members considered it likely that this area was not usable during the time period.

In relation to Area G and H these were not subject to objections in relation to the relevant criteria, however, Mr Hunt who spoke on behalf of 54 landowners at Solent Landings raised objections to the registration of Area H and requested that the committee consider a deferment of the hearing to a later date in order that a covenant between the landowners and Bembridge Parish Council could be explored. The proposal being that such a covenant would restrict future development on Area H, removing the need for registration as a village green.

Members were advised that the landowners had since 2001 developed part of the area into a small sensitively managed garden containing many rare flora and fauna which they would want to see given the protection which they felt a Village Green could not provide.

The committee then adjourned to consider the request.

After reconvening, the committee rejected the request to adjourn to a later date on the basis that the application for a Village Green should be considered on the evidence before it and that the proposal of a covenant whilst if achievable, would prevent future development, would not address the potential rights claimed by the Village Green application.

Concerns were also expressed by Mr Hunt as to the quality of 89 of the users statements received and presented as evidence by the applicant as they did not sufficiently identify Area H when describing the usage. Members were satisfied that there was sufficient evidence in the statements to satisfy the criteria.

Mr Hunt asked the subcommittee to consider the landowners Human Rights, and that the registration of Area H would be an infringement and that that they would lose sole and beneficial rights / privacy and protection against dog fouling, broken glass and litter. The owners of Solent Landings had fenced Area H after 2001 with wooden posts connected by chain links. Mr Hunt asked members, when weighing up the rights of the land owner and the public interest, to find in favour of the landowners. Members were advised that in considering the respective parties Human Rights, that registration of a village green does not deprive the landowners of their legal ownership, though the

use of the land would be restricted. Members were of the view that in balancing these interests, registration of Area H was in the public interest.

RESOLVED:

- I. THAT the application in respect of the parts of the land shown marked Area G, Area H and Area J on Plan A2, subject to the exclusion of the hatched area (as illustrated within a solid line on Plan A4 in Appendix B of the Committee Report, be registered as a town or village green under Section 13 of the Commons Registration Act 1965 and Regulation 3 of the Commons Registration (New Land) Regulations 1969.).
- II. THAT the application in respect of the parts of the land shown marked Area A, Area B, Area C, Area D, Area E and Area F on Plan A2 be rejected on the grounds that they do not satisfy the statutory conditions for registration on the grounds that access to these areas of land have not been as of right for the full 20 year period.

CHAIRMAN