

REGULATORY COMMITTEE

2 DECEMBER 2015

ITEM 7

APPLICATION TO REGISTER LAND AT WUGHTON-ON-THE-GREEN, MILTON KEYNES AS A VILLAGE GREEN UNDER THE PROVISIONS OF SECTION 15 OF THE COMMONS ACT 2006

RESPONSE FROM CHAIR TO QUESTION RAISED BY MR A HUMPHRIES

Chair –

“Following the publication of the Inspector’s report and recommendation on the Woughton on the Green Playing Fields village green application, the applicant, Mr Humphries, has submitted two questions to the committee, which I shall set out in full –

‘I am the Applicant for the Woughton on the Green Playing Fields Village Green Application.

I accept the report from the inquiry inspector and its recommendation. However, in wishing to better understand the rationale behind the Council’s application handling process, I request clarification on one important point.

MKC accepted the district park terms of transfer of the land from MK Development Corporation in 1992 and then reinforced this by registering the land under the QE2 Playing Fields in Trust scheme. Furthermore, in recently letting a contract to manage the land for a minimum of 10 years, it guaranteed the residents of Old Woughton Parish freedom to use the land as they have always has done. Finally, during the application process, the Council offered to voluntarily register a portion of the land as a Village Green.

Village Green designation would thus have enhanced these demonstrations of support by securing the right of local people to enjoy the Woughton Playing Fields for recreation in perpetuity and by giving the land a new status as ‘land for the community’. Furthermore this could easily have been accomplished by the Council through voluntary registration under 15(8) of the 2006 Open Spaces Act.

Why then, did the Council spend thousands of pounds in administrative and legal costs objecting to the application?’

The second question is as follows –

‘At the meeting I am hoping to gain a better understanding of the rationale behind the Council’s VG Application process. I would thus be grateful if the Committee could provide me with a detailed statement of MKC’s internal and external costs of processing my Application, from its submission in early 2014 up to and including its consideration by the committee next week.’

Before responding, it is important to clarify that the objection to the application was made by the Council’s Leisure Services department in its capacity as landowner of the application site, independent from the Council in its different capacity as Registration Authority. This Committee exercises the functions of the Registration Authority and the officers advising this committee act for the Registration Authority. They do not act for the Council in its different capacity as landowner and objector. In response to the first question, the Council’s Leisure Services department as

landowner and objector (who have been advised by external lawyers due to a conflict of interest) has provided me with this response:

'The principal reason why the Council objected as landowner was because the registration of the land as a town or village green would constrain and curtail its current and future use as Milton Keynes' most important community multisport outdoor pitch facility.

The Effect of Registration

The effect of a registration of the land, in essence limits what can be done to it; even if it is recreational in nature – for example section 12 of the Inclosure Act 1857 makes it a criminal offence to “undertake any act which causes injury to a green”. In practice this would mean that any change to the grass surface is likely to be unlawful – for example, removing the turf and laying an astro-turf pitch or tennis court would be unlawful, even though it would enhance the recreational value of the sports ground. This is particularly important because sport pitch layouts can change over time, both in terms of what sports are played but also the sizes and configurations of pitches. Indeed in the past rugby was played on the site. It is important that this site retains the flexibility to change in future to remain as a vibrant and sustainable outdoor sports facility.

In practical terms the consequences of registration of the land as a town or village green would be as follows:

- (a) It is doubtful whether we could install temporary seating for special sports events*
- (b) We couldn't move or remove the baseball facility or indeed any of the pitches should a particular sport become redundant. We also couldn't move existing paths across the site to facilitate any pitch reconfiguration or alignment*
- (c) We couldn't put up temporary fencing for events such as a training ground for the recent Rugby World Cup*
- (d) We might wish to change the nature of the makeup of the pitches using up-to-date grass maintenance technology such as grass weaves – because this would “cause injury” to the green and would be unlawful.*

The Nature and Purpose of the Inquiry

The sole purpose of the Inquiry was to consider a preliminary legal question, which was whether it was legally possible to register the land as a town or village green. A key issue was the legal status of the land. Recent case law provides that where a local authority holds land for recreational purposes, then it cannot be registered as a town or village green solely because it has been used by the public for recreational purposes over a long period of time. This is because the public, by virtue of the way in which the Council holds the land, already have a right to use it for recreational purposes. It was on this legal basis that the Inspector concluded that the land was not capable of being registered as a town or village green. In practice, if the Inspector's recommendations are accepted, it would be incorrect in law for the Registration Authority to register the land as a town or village green and the application, as a matter of law, could never have succeeded. It would have been inappropriate, and in contradiction to their wider legal duty to provide recreational facilities to the whole of Milton Keynes, not to have pointed this out to the

Registration Authority (through its objection) and it was as a result of that, that the Registration Authority decided to hold the Inquiry.

Why was part of the site offered for use as a village or town green?

The area concerned is a small parcel of land that backs on to houses on one side and to the west of the astro-turf area. The offer was made by the Council (performing its leisure services function) in the interests of resolving the application for registration. The Council was willing to accept the designation of the area of land concerned as a town or village green if it meant the wider public recreational value of remainder of Woughton-on-the Green was protected. The offer reflected a reasonable compromise as it formally dedicated an area of land where local residents could walk their dogs, fly kites and play ball games etc, that is, all of the things that town or village green registration protects; whilst at the same time allowing the Council to use the balance of the site in a flexible way serving the best recreational interests of all of the residents of Milton Keynes. Incidentally, irrespective of the designation, the Council has no plans to develop this area and the public will still be able to do all of the activities mentioned above, both now and in the foreseeable future. In the event, the offer was rejected by the applicant. Had that offer been accepted then the costs associated with an inquiry would have been avoided.'

In relation to the second question, the Council as Registration Authority can give the following information on the Officer time spent and the external costs of processing the Application, from its submission in early 2014 up to and including its consideration by this Committee.

Registration Authority officer & other costs

Assessment of the time spent would be as follows.

Rights of Way Officer

Receipt and initial checking of the application and verify as duly made - Four hours

Post notices and consultations with interested parties - Fifteen Hours

Consultation with colleagues regarding status and Nature of Public enquiry - Two Hours

Attend public Enquiry - Nine Hours

Study Inspectors decisions and Draft Committee report - Twenty Hours

Attend Chairs Briefing - One Hour

Attend Committee - Three Hours

Total - Fifty Three Hours, Grade G at £84/Hour =**£4452 (Inclusive of on costs)**

Landscape Contracts Manager

Attend public Enquiry - Nine Hours

Consultation with RoW Officer re Report - One Hour

Total - Ten Hours, Grade I at £108/Hour =**£1080 (Inclusive of on costs)**

Democratic Services Officer and other costs

The staff time and print costs attributable to Democratic Services on this matter would have been negligible as The Woughton on the Green application was just one item amongst many on the Committee agenda

Legal Services

In house legal costs are not recorded and consequently not available.

Inquiry Inspector - £1,800